

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 11—Anhydrous Ammonia

### PROPOSED AMENDMENT

**2 CSR 90-11.010 ANSI K61.1 [-1981], Safety Requirements for the Storage and Handling of Anhydrous Ammonia.** The director proposes to amend the title and add a new section (3).

*PURPOSE: The purpose of this amendment is to provide a definition for cylinders that are appropriate for the storage and transportation of anhydrous ammonia.*

(3) Cylinders and other portable containers used in anhydrous ammonia service shall be designed, fabricated, tested, constructed, marked and placarded in accordance with the United States Department of Transportation Hazardous Materials regulations contained in 49 CFR parts 100 to 185, which are herein incorpo-

rated by reference, and approved for the storage and transportation of anhydrous ammonia. Cylinder and other portable container valves and other fittings, or hoses attached thereto, used in anhydrous ammonia service, shall be constructed of material resistant to anhydrous ammonia and shall not be constructed of brass, copper, silver, zinc or other material subject to attack by ammonia. Each cylinder utilized for the storage and transportation of anhydrous ammonia shall be labeled, in a conspicuous location, with the words "ANHYDROUS AMMONIA" or "CAUTION: ANHYDROUS AMMONIA" and the UN number 1005 (UN 1005).

*AUTHORITY: section 266.355, RSMo [1986] 2000. Original rule filed Jan. 15, 1985, effective April 11, 1985. Emergency amendment filed Nov. 17, 2003, effective Nov. 27, 2003, expires May 12, 2004. Amended: Filed Nov. 17, 2003.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Ron Hooker, Director, Weights and Measures Division, PO Box 630, Jefferson City, MO 65102-0630. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 30—Petroleum Inspection

### PROPOSED AMENDMENT

**2 CSR 90-30.050 Inspection of Premises.** The director proposes to amend sections (21) and (28).

*PURPOSE: This proposed amendment will more appropriately address a compliance timeline for those safety hazards associated with riveted aboveground storage tanks and low melting point piping materials allowing for a timely schedule for compliance.*

(21) Any aboveground storage tank utilizing riveted construction, that has been determined by inspection, by the Department of Agriculture, to have extensive corrosion of the tank shell or seepage or leakage from any portion of the tank shell or tank seams, shall be removed from service and disposed of in a safe manner. All other aboveground storage tanks utilizing riveted construction shall be removed from service on or before *[January 1, 2004]* **December 31, 2005**, and disposed of in a manner that is safe to public, property and the environment.

(28) All piping, including fiberglass and other nonmetallic piping, constructed of low melting point materials shall be installed in conformance with manufacturers instructions. All piping, including fiberglass and other nonmetallic piping, constructed of low melting point materials *[cannot be installed]* in dispensing devices or open pits or sumps beneath the dispensing device*, unless the piping is/ shall be protected from fire exposure. Protection shall be provided by December 31, 2005* by a method *[having a two (2) hour fire rating and]* that is approved by the director of the Department of Agriculture.

*AUTHORITY:* section 414.142, RSMo [Supp. 1998] 2000. This rule was previously filed as 2 CSR 90-30.010. Emergency rule filed Dec. 1, 1987, effective Jan. 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. Amended: Filed April 2, 1990, effective June 28, 1990. Amended: Filed April 8, 1999, effective Nov. 30, 1999. Amended: Filed Nov. 17, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement on support of or in opposition to this proposed amendment with the Department of Agriculture, Ron Hooker, Director, Weights and Measures Division, PO Box 630, Jefferson City, MO 65102-0630. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 9—Wildlife Code: Confined Wildlife: Privileges,**  
**Permits, Standards**

**PROPOSED AMENDMENT**

**3 CSR 10-9.220 Wildlife Confinement Standards.** The commission proposes to amend Appendix A.

*PURPOSE:* This amendment updates the form that follows the rule in the *Code of State Regulations*.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-3.020. Original rule filed Nov. 2, 1984, effective Feb. 11, 1985. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 25, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

APPENDIX A

CAGE, PEN OR OTHER ENCLOSURE STANDARDS FOR CLASS II WILDLIFE  
3 CSR 10-9.220 (3) [Revised 06/24/96, 03/01/03]

Species	Enclosure Space (sq. ft.)	Space per Each Additional Animal	Enclosure Height (feet)	Cage Material
Black Bear or hybrids	150	50% larger	8(w/top) or 10(w/o top - 12 after 3/03)	Not smaller than 9 gauge steel chain link; top required for 8-foot enclosure; 3-foot lean-in on top of fence acceptable for 10-foot enclosure. (For enclosures constructed after 3-1-03, height (without top) must be 12 feet with 3-foot lean-in on top; two strands of hot wire (8000-10000 volt) on fence, one strand on lean-in, one strand along bottom or middle of fence; 4-inch concrete floor or non-rust 9 gauge chain link buried 2 feet and angled underground toward enclosure interior; for pens anchored flush with ground, 3-foot interior dig-out panel required at ground surface.)
Mountain Lion or hybrids	200	50% larger	8	Not smaller than 11 gauge steel chain link; top required.
Wolf or hybrids	200	50% larger	6	Not smaller than 9 gauge steel chain link; 4-inch concrete floor or non-rust 9 gauge chain link buried 2 feet and angled underground toward enclosure interior; for pens anchored flush with ground, 3-foot interior dig-out panel required at ground surface; top required, except 8-foot fence with 3-foot lean-in acceptable for wolves.
Venomous Snakes	(Perimeter must be 1 1/2 times length of longest snake)	25% larger		When on public display outside approved confinement facility, any side of exhibit cage exposed to the public shall have a double glass or escape-proof double mesh barrier designed to prevent contact between venomous reptile and the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED AMENDMENT**

**4 CSR 240-3.165 Annual Report [Filing] Submission Requirements for Electric Utilities.** The commission is proposing to amend the title of the rule, the Purpose section of the rule and all existing sections of the rule, and to add four new sections to the rule and renumber the existing sections of the rule as needed.

*PURPOSE: The changes proposed in this amendment are intended to update the rule to comport with current commission procedures regarding the submission of annual reports by commission-regulated utilities. References to the commission's electronic filing and information system, and the use of that system, are also being added to the rule.*

*PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for [filing] the submission of annual reports by electric utilities that are subject to the jurisdiction of the [Missouri Public Service Commission] commission, including the procedures for [filing] submitting nonpublic annual report information [under seal].*

(1) All electric utilities [subject to the jurisdiction of the Missouri Public Service Commission shall file] shall submit an annual report [with] to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Electric utilities shall [file] submit their annual reports [on] either on a form provided by the commission or on a computer-generated replica [which] that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) An electric utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

[(3)](4) [Where a] If an electric utility subject to this rule considers the information requested on the annual report form to be [confidential, it must make a written request to the secretary of the commission to file that information under seal and state good cause for maintaining the information under seal. The secretary of the commission shall then, through the general counsel, present that request to the commission for approval. The secretary of the commission shall inform the utility within three (3) days of the commission decision whether the request has been granted.] nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under

this section that do not include both versions will not receive confidential treatment and will be subject to public disclosure. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within ten (10) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

[(4)](6) An electric utility [which] that is unable to meet the [filing] submission date established in section (1) of this rule [shall make a written request to extend the filing date for its annual report to the secretary of the commission and state the reason for the extension request. The secretary of the commission, through the chief administrative law judge, shall present the report to the commission for approval. The secretary of the commission shall inform the utility in writing within three (3) days of the decision of the commission.] may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) An electric utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.



(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) An electric utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the Missouri Register, and should include a reference to Commission Case No. AX-2004-0160. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED AMENDMENT**

**4 CSR 240-3.245 Annual Report [Filing] Submission Requirements for Gas Utilities.** The commission is proposing to amend the title of the rule, the purpose section of the rule and all existing sections of the rule, and to add four new sections to the rule and renumber the existing sections of the rule as needed.

*PURPOSE: The changes proposed in this amendment are intended to update the rule to comport with current commission procedures regarding the submission of annual reports by commission-regulated utilities. References to the commission's electronic filing and information system, and the use of that system, are also being added to the rule.*

*PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for [filing] the submission of annual reports by gas utilities that are subject to the jurisdiction of the [Missouri Public Service Commission] commission, including the procedures for [filing] submitting nonpublic annual report information [under seal].*

(1) All gas utilities [subject to the jurisdiction of the Missouri Public Service Commission shall file] shall submit an annual report [with] to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Gas utilities shall [file] submit their annual reports [on] either on a form provided by the commission or on a computer-generated replica [which] that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A gas utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

[(3)](4) [Where a] If a gas utility subject to this rule considers the information requested on the annual report form to be [confidential, it must make a written request to the secretary of the commission to file that information under seal and state good cause for maintaining the information under seal. The secretary of the commission shall then, through the general counsel, present that request to the commission for approval. The secretary of the commission shall inform the utility within three (3) days of the commission decision whether the request has been granted.] nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will not receive confidential treatment and will be subject to public disclosure. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information

than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within ten (10) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

[(4)](6) A gas utility [which] that is unable to meet the [filing] submission date established in section (1) of this rule [shall make a written request to extend the filing date for its annual report to the secretary of the commission and state the reason for the extension request. The secretary of the commission, through the chief administrative law judge, shall present the report to the commission for approval. The secretary of the commission shall inform the utility in writing within three (3) days of the decision of the commission.] may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A gas utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A gas utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

*AUTHORITY:* sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be

considered, comments must be received at the commission's offices within thirty (30) days of publication in the *Missouri Register*, and should include a reference to Commission Case No. AX-2004-0160. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission**

##### **Chapter 3—Filing and Reporting Requirements**

#### **PROPOSED AMENDMENT**

**4 CSR 240-3.335 Annual Report [Filing] Submission Requirements for Sewer Utilities.** The commission is proposing to amend the title of the rule, the purpose section of the rule and all existing sections of the rule, and to add four new sections to the rule and renumber the existing sections of the rule as needed.

*PURPOSE:* The changes proposed in this amendment are intended to update the rule to comport with current commission procedures regarding the submission of annual reports by commission-regulated utilities. References to the commission's electronic filing and information system, and the use of that system, are also being added to the rule.

*PURPOSE:* Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for [filing] the submission of annual reports by sewer utilities that are subject to the jurisdiction of the [Missouri Public Service Commission] commission, including the procedures for [filing] submitting nonpublic annual report information [under seal].

(1) All sewer utilities [subject to the jurisdiction of the Missouri Public Service Commission shall file] shall submit an annual report [with] to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Sewer utilities shall [file] submit their annual reports [on] either on a form provided by the commission or on a computer-generated replica [which] that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A sewer utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

[(3)](4) [Where a] If a sewer utility subject to this rule considers the information requested on the annual report form to be [confidential, it must make a written request to the secretary of the commission to file that information under seal and state good cause for maintaining the information under seal. The

*secretary of the commission shall then, through the general counsel, present that request to the commission for approval. The secretary of the commission shall inform the utility within three (3) days of the commission decision whether the request has been granted.] nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as non-public information to be kept under seal. Submittals made under this section that do not include both versions will not receive confidential treatment and will be subject to public disclosure. In addition to the foregoing, submittals made under this section must meet the following requirements:*

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains non-public information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within ten (10) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

*[(4)](6) A sewer utility [which] that is unable to meet the [filing] submission date established in section (1) of this rule [shall make a written request to extend the filing date for its annual report to the secretary of the commission and state the reason for the extension request. The secretary of the commission, through the chief administrative law judge, shall present the report to the commission for approval. The secretary of the commission shall inform the utility in writing within three (3) days of the decision of the commission.] may obtain an extension of up to thirty (30) days for submitting its annual report by:*

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A sewer utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A sewer utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the Missouri Register, and should include a reference to Commission Case No. AX-2004-0160. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.*

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements**

#### **PROPOSED AMENDMENT**

**4 CSR 240-3.435 Annual Report [Filing] Submission Requirements for Steam Heating Utilities.** The commission is proposing to amend the title of the rule and the purpose section of the rule; to remove sections (1) and (2) of the rule, amend section (3) of the rule and renumber section (3) of the rule accordingly; and to add seven new sections at the end of the rule.

*PURPOSE: The changes proposed in this amendment are intended to update the rule to comport with current commission procedures regarding the submission of annual reports by commission-regulated*



utilities and to remove provisions not related to the submission of annual reports. References to the commission's electronic filing and information system, and the use of that system, are also being added to the rule.

**PURPOSE:** Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission, and section 393.290 provides for the commission's jurisdiction over steam heating utilities. This rule establishes the standards for [filing] the submission of annual reports by steam heating utilities that are subject to the jurisdiction of the [Missouri Public Service Commission] commission, including the procedures for [filing] submitting nonpublic annual report information[under seal].

[(1) For the purposes of improving the efficiency of administration and operation, any heating company, unless otherwise ordered, may keep upon its books any temporary or experimental accounts and any accounts covering particular divisions of its operations, provided that in respect of each such temporary, experimental or divisional account the heating company shall file with the Public Service Commission, at least ten (10) days in advance of the time when the account is to be instituted, a statement showing the name of the account, the date when it is to be instituted, the purpose for which it is to be kept, the period of time during which it is to be kept and a clear and accurate definition of the classes of items and facts to be contained on the account and in case of a divisional account, the definition of the division covered. Upon compliance with the provisions of this section, any account herein prescribed or defined may be subdivided.

(2) All notices required to be filed with the commission concerning accounts shall be upon sheets eight and one-half inches by eleven inches (8 1/2" x 11") in size and shall be entitled with the name of the heating company filing notices, followed by a brief statement of the character of the accounts covered by the notice.]

[(3)](1) [Annual reports for all heating companies subject to regulations by this commission shall be filed with the commission] All steam heating utilities shall submit an annual report to the commission on or before April 15 [following the year for which the report is made] of each year, except as is otherwise provided for in this rule.

(2) Steam heating utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A steam heating utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a steam heating utility subject to this rule considers the information requested on the annual report form to be nonpub-

lic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will not receive confidential treatment and will be subject to public disclosure. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within ten (10) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A steam heating utility that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A steam heating utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions



of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A steam heating utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

*AUTHORITY:* sections 386.250, 393.140 and 393.290, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the *Missouri Register*, and should include a reference to Commission Case No. AX-2004-0160. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 3—Filing and Reporting Requirements**

**PROPOSED AMENDMENT**

**4 CSR 240-3.540 Annual Report [Filing] Submission Requirements for Telecommunications Companies.** The commission is proposing to amend the title of the rule, the purpose section of the rule and all existing sections of the rule, and to add four new sections to the rule and renumber the existing sections of the rule as needed.

*PURPOSE:* The changes proposed in this amendment are intended to update the rule to comport with current commission procedures regarding the submission of annual reports by commission-regulated utilities. References to the commission's electronic filing and information system, and the use of that system, are also being added to the rule.

*PURPOSE:* Section 392.210.1, RSMo, includes a requirement that telecommunications companies subject to the commission's jurisdiction must submit an annual report to the commission. This rule establishes the standards for [filing] the submission of annual reports by such telecommunications companies [subject to the jurisdiction of the Missouri Public Service Commission], including the procedures for [filing] submitting nonpublic annual report information [under seal].

(1) Except for private pay telephone providers, which are exempted under the provisions of 4 CSR 240-3.505(1)(B), [All] all telecommunications [utilities subject to the jurisdiction of the

*Missouri Public Service Commission shall file] companies shall submit an annual report [with] to the commission on or before April 15 of each year, [except private pay telephone providers which are exempted under the provisions of 4 CSR 240-3.505(1)(B)] except as otherwise provided for in this rule.*

(2) Telecommunications [utilities] companies shall [file] submit their annual reports [on] either on a form provided by the commission or on a computer-generated replica [which] that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A telecommunications company that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

[(3)](4) [Where a utility] If a telecommunications company subject to this rule considers the information requested on the annual report form to be [confidential, it must make a written request to the secretary of the commission to file that information under seal and state good cause for maintaining the information under seal. The secretary of the commission shall then, through the general counsel, present that request to the commission for approval. The secretary of the commission shall inform the utility within three (3) days of the commission decision whether the request has been granted.] nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will not receive confidential treatment and will be subject to public disclosure. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the company affected by the request. The pleading must explain how

the public interest is better served by disclosure of the information than the reason provided by the company affected by the request justifying why the information should be kept under seal. The company affected by the request may file a response to a pleading filed under these provisions within ten (10) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the company's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

[(4)](6) [A utility which] A telecommunications company that is unable to meet the [filing] submission date established in section (1) of this rule [shall make a written request to extend the filing date for its annual report to the secretary of the commission and state the reason for the extension request. The secretary of the commission, through the chief administrative law judge, shall present the report to the commission for approval. The secretary of the commission shall inform the utility in writing within three (3) days of the decision of the commission.] may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A telecommunications company that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A telecommunications company that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred (\$100) dollars for each day that it is late in filing its annual report or its response to a notice of deficiency.

**AUTHORITY:** sections 386.250 and 392.210, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file comments in support of or in opposition to this proposed amendment with the

Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the *Missouri Register*, and should include a reference to Commission Case No. AX-2004-0160. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

#### PROPOSED AMENDMENT

**4 CSR 240-3.640 Annual Report [Filing] Submission Requirements for Water Utilities.** The commission is proposing to amend the title of the rule, the purpose section of the rule and all existing sections of the rule, and to add four new sections to the rule and renumber the existing sections of the rule as needed.

**PURPOSE:** The changes proposed in this amendment are intended to update the rule to comport with current commission procedures regarding the submission of annual reports by commission-regulated utilities. References to the commission's electronic filing and information system, and the use of that system, are also being added to the rule.

**PURPOSE:** Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for [filing] the submission of annual reports by water utilities that are subject to the jurisdiction of the [Missouri Public Service Commission] commission, including the procedures for [filing] submitting nonpublic annual report information [under seal].

(1) All water utilities [subject to the jurisdiction of the Missouri Public Service Commission shall file] shall submit an annual report [with] to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Water utilities shall [file] submit their annual reports [on] either on a form provided by the commission or on a computer-generated replica [which] that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A water utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

[(3)](4) [Where a] If a water utility subject to this rule considers the information requested on the annual report form to be [confidential, it must make a written request to the secretary of

*the commission to file that information under seal and state good cause for maintaining the information under seal. The secretary of the commission shall then, through the general counsel, present that request to the commission for approval. The secretary of the commission shall inform the utility within three (3) days of the commission decision whether the request has been granted.] nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will not receive confidential treatment and will be subject to public disclosure. In addition to the foregoing, submittals made under this section must meet the following requirements:*

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the non-public version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within ten (10) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

[(4)](6) A water utility [which] that is unable to meet the [filing] submission date established in section (1) of this rule [shall make a written request to extend the filing date for its annual report to the secretary of the commission and state the reason for the extension request. The secretary of the commission, through the chief administrative law judge, shall present the report to the commission for approval. The secretary of the commission shall inform the utility in writing within three (3) days of the decision of the commission.] may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A water utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A water utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days of publication in the Missouri Register, and should include a reference to Commission Case No. AX-2004-0160. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**PROPOSED RULE**

**4 CSR 240-32.180 Definitions—Caller Identification Blocking Service**

*PURPOSE: This rule defines terms used in section 4 CSR 240-32.190.*

(1) Caller identification—A service providing for a caller's originating telephone number to appear through the use of a display box at the called party's location.



(2) Per-call blocking—A service providing for a caller's ability to block, through the use of an access code, the originating telephone number from appearing on a display box at the called party's location.

(3) Per-line blocking—A service providing for an originating telephone number to be blocked from appearing on a display box at the called party's location. Per-line blocking is accomplished without the need of the caller to dial an access code.

*AUTHORITY:* sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed Sept. 26, 2003, effective Oct. 6, 2003, expires April 2, 2004. Original rule filed Nov. 4, 2003.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 31, 2003, and should include a reference to Commission Case No. TX-2004-0206. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 32—Telecommunications Service**

#### **PROPOSED RULE**

##### **4 CSR 240-32.190 Standards for Providing Caller Identification Blocking Service**

*PURPOSE:* This rule sets forth standards to be followed for Caller Identification Blocking Service.

(1) All telecommunications companies shall permit per-call blocking when the caller dials access code star 67 (\*67), or 1167 from a rotary dial telephone prior to dialing the telephone number. No other means of per-call blocking shall be permitted.

(2) All telecommunications companies shall provide per-line blocking for federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of these agencies who have a need for such blocking pursuant to their employment. A telecommunications company shall enable per-line blocking within a reasonable time after a request from such an agency. A telecommunications company may determine whether the request has been made by a law enforcement or domestic violence intervention agency. No telecommunications company shall knowingly provide per-line blocking to any other entity or person.

(3) No telecommunications company shall charge any fee for per-call blocking.

(4) No telecommunications company shall charge any fee for per-line caller identification blocking for authorized federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of these agencies who have a need for such blocking pursuant to their employment.

*AUTHORITY:* sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed Sept. 26, 2003, effective Oct. 6, 2003, expires April 2, 2004. Original rule filed Nov. 4, 2003.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 31, 2003, and should include a reference to Commission Case No. TX-2004-0206. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. No public hearing is scheduled.

#### **Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**

##### **Division 100—Missouri Commission for the Deaf and Hard of Hearing**

##### **Chapter 200—Board for Certification of Interpreters**

#### **PROPOSED AMENDMENT**

**5 CSR 100-200.010 General Organization.** The commission is amending sections (1), (2), (5), (6) and (8) of this rule.

*PURPOSE:* In 2002 the Missouri legislature changed the name of the "Missouri Commission for the Deaf" to the "Missouri Commission for the Deaf and Hard of Hearing." This amendment adds the words "and Hard of Hearing" to the name "Missouri Commission for the Deaf" everywhere that the name appears in the rule. It also adds the letters "HH" to the abbreviation "MCD" everywhere that the abbreviation appears in the rule.

(1) There is established within the Missouri Commission for the Deaf and Hard of Hearing (MCDHH) a "Board for Certification of Interpreters" (BCI), which shall be composed of five (5) members. The executive director of the MCDHH or his/her designee shall be a nonvoting member of the BCI.

(2) The members of the BCI shall be appointed by the governor with the advice and consent of the senate from a list of recommendations from the MCDHH. The BCI shall elect from its membership a chairperson and a secretary. A quorum of the BCI shall consist of three (3) of its members.

(5) The coordinator of the Missouri Interpreters Certification System (MICS) shall be hired by the executive director of the MCDHH, and shall be responsible for implementing policies and decisions of the BCI, maintaining the BCI's records, and responding to all requests for access to the BCI's public records.

(6) The public may obtain information from, as well as make submissions to, the BCI by submitting their requests or materials in writing to the MICS coordinator at the MCDHH office.

(C) It shall be improper for any BCI member, MCDHH member, or MCDHH staff member to discuss with any person, except members of the BCI, MCDHH, staff of the MCDHH, State Committee of Interpreters, staff of the State Committee of Interpreters, or counsel for any of these agencies, any matter which is confidential, including complaints against the certification process, that is pending before the BCI, MCDHH, State Committee of Interpreters, or the Administrative Hearing Commission.

(8) Individuals wishing to make a presentation at a BCI meeting must submit their requests in writing to the executive director of the MCDHH a minimum of three (3) working days prior to the meeting.

**AUTHORITY:** sections 209.287, 209.292, **RSMo Supp. 2003** and 209.295(8), **RSMo 2000**. Original rule filed June 20, 1996, effective Jan. 30, 1997. Amended: Filed May 14, 1997, effective Dec. 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 100—Missouri Commission for the Deaf and  
Hard of Hearing  
Chapter 200—Board for Certification of Interpreters**

**PROPOSED AMENDMENT**

**5 CSR 100-200.030 Missouri Interpreters Certification System.** The commission is amending the title of this rule, as well as sections (1) and (2) and deleting section (7).

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the Revised Statutes of Missouri. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule. It also adds the letters “HH” to the abbreviation “MCD” everywhere that the abbreviation appears in the rule. Last, this amendment deletes the statement that “At this time, the BCI is not issuing a provisional certification as authorized in 209.309, **RSMo**” given the recent creation of the Provisional Restricted Certification in Education.

(1) Any individual who practices interpreting in the state of Missouri as defined in 209.285 and 209.321, **RSMo**, must be certified in the Missouri Interpreters Certification System (MICS).

(2) The Missouri Commission for the Deaf and Hard of Hearing (MCDHH) authorizes the Board for Certification of Interpreters (BCI) to purchase or develop materials to be used as the most appropriate testing materials for certifying interpreters in the state of Missouri.

*[(7) At this time, the BCI is not issuing a provisional certification as authorized in 209.309, **RSMo**.]*

**AUTHORITY:** sections 209.292(1), (2) and (11) **RSMo Supp. 2003**, 209.295(8) and 209.305, **RSMo 2000**. Original rule filed June 20, 1996, effective Jan. 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
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Chapter 200—Board for Certification of Interpreters**

**PROPOSED AMENDMENT**

**5 CSR 100-200.040 Restricted Certification in Education.** The commission is amending sections (3) and (4) of this rule.

**PURPOSE:** This amendment deletes the “II” from the name “Signing Exact English II” leaving it the more generic name “Signing Exact English.” It also recognizes that “Signing Exact English” is sometimes referred to as “Manually Coded English (MCE)” and adds that to the communications endorsement of a Restricted Certification in Education.

(3) All RCED certificates shall be issued with an appropriate endorsement showing the communication mode in which the recipient is qualified. The communication mode endorsement shall be one (1) of the following:

(C) Signing Exact English [III] (SEE [III])/Manually Coded English (MCE)

(4) The RCED (General) shall be given based on the applicant’s ability to meet the minimum criteria for the Intermediate Certification level in either:

(B) Transliterating from spoken English to an English-based sign system, such as PSE, [or] SEE [III], or MCE, and from an English-based sign system to spoken English.

**AUTHORITY:** sections 209.292(1), **RSMo Supp. 2003** and 209.295(1), (3) and (8), **RSMo 2000**. Original rule filed May 14, 1997, effective Dec. 30, 1997. Amended: Filed Oct. 21, 1997, effective April 30, 1998. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
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**PROPOSED AMENDMENT**

**5 CSR 100-200.050 Application for Interpreter Certification in Missouri.** The commission is amending sections (1) and (2) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the Revised Statutes of Missouri. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule.

(1) To be eligible for certification in the Missouri Interpreters Certification System (MICS), each applicant must:

(2) An application for certification must be completed on a form developed by the Board for Certification of Interpreters. Application forms may be obtained by writing to the office of the Missouri Commission for the Deaf and Hard of Hearing.

**AUTHORITY:** sections 209.292(1), *RSMo Supp. 2003* and 209.295(1) and (8), *RSMo 2000*. Original rule filed June 20, 1996, effective Jan. 30, 1997. Amended: Filed May 14, 1997, effective Dec. 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.060 Written Test.** The commission is amending sections (1)–(4) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the Revised Statutes of Missouri. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule. It also adds the letters “HH” to the abbreviation “MCD” everywhere that the abbreviation appears in the rule. Last, the amendment changes the information to be given to an applicant for the written test from the “date, time, and place of the next written test” to the “locations of approved proctor sites for taking the MICS written test, as well as relevant contact personnel at those sites.”

(1) The form, content, method of administration, passing standards, and method of scheduling of written tests in the Missouri Interpreters Certification System (MICS) shall be determined by the Board for Certification of Interpreters (BCI).

(2) MICS written tests for groups of applicants shall be offered at proctor sites throughout the state of Missouri as often as feasible, but not less than two (2) times a year. In addition, the MICS written test may normally be taken by individual applicants at the office of the Missouri Commission for the Deaf and Hard of Hearing (MCDHH) on any weekday if it is scheduled with the coordinator at least three (3) days in advance.

(3) All applicants will upon request be *[notified of the date, time, and place of the next written test to be offered at a proctor site/ informed of the locations of approved proctor sites for taking the MICS written test, as well as relevant contact personnel at those sites]*.

(4) The written test fee must be received at the MCDHH office prior to applicants being allowed to take the written test.

**AUTHORITY:** sections 209.292(1) *RSMo Supp. 2003* and 209.295(8), *RSMo 2000*. Original rule filed June 20, 1996, effective Jan. 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.



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**PROPOSED AMENDMENT**

**5 CSR 100-200.070 Performance Test and Evaluation.** The commission is amending the Purpose of this rule, as well as sections (1)–(4) of this rule.

*PURPOSE:* This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule. It also adds the letters “HH” to the abbreviation “MCD” everywhere that the abbreviation appears in the rule.

*PURPOSE:* This rule provides information concerning the performance test and evaluation in the Missouri Interpreters Certification System.

(1) The form, content, method of administration, passing standards, and method of scheduling of performance tests and evaluations in the Missouri Interpreters Certification System (MICS) shall be determined by the Board for Certification of Interpreters (BCI).

(2) Performance tests may normally be taken by individual applicants at the office of the Missouri Commission for the Deaf **and Hard of Hearing** (MCDHH) on any day of the week if they are scheduled with the coordinator at least thirty (30) days in advance.

(3) The performance test fee of all applicants must be received at the office of the MCDHH at least thirty (30) days prior to the date of their performance test.

(4) The coordinator of the MICS will inform all applicants of their evaluation results by letter after the completion of their performance evaluation.

(A) Included with the letter will be a wallet-sized certificate bearing the signature of the executive director of the MCDHH indicating the type or level of certification granted by the evaluators.

*AUTHORITY:* sections 209.295(8) and 209.299, RSMo 2000. Original rule filed June 20, 1996, effective Jan. 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.075 Voluntary Recertification.** The commission is amending the Purpose of this rule, as well as sections (1)–(3).

*PURPOSE:* This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*. It also clarifies that sections (2) and (3) apply to interpreters who are “certified” in the MICS.

*PURPOSE:* This rule outlines the process whereby an interpreter seeking either to recertify as a Novice or Apprentice or to obtain a higher level of certification in the Missouri Interpreters Certification System can volunteer to be reevaluated.

(1) An interpreter in the Missouri Interpreters Certification System (MICS) can volunteer to have his/her performance retested and reevaluated in order to recertify as Novice or Apprentice or to obtain a higher certification level.

(2) An interpreter **certified** in the MICS may not retake the performance test and be reevaluated until at least six (6) months has passed from the date of his/her last performance test.

(3) An interpreter **certified** in the MICS shall not be retested and reevaluated unless he/she has submitted completion of continuing education requirements as set forth in 5 CSR 100-200.130.

*AUTHORITY:* sections 209.292(1), (2) and (11) RSMo Supp. 2003 and 209.295(8), RSMo 2000. Original rule filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.100 Certification Conversion Procedures.** The commission is amending section (1) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*.

(1) Interpreters who have been certified by a certifying entity other than the Missouri Interpreters Certification System (MICS) may apply for conversion of their certification into an MICS certification.

**AUTHORITY:** sections 209.292(9) *RSMo Supp.2003*, 209.295(3) and (4), *RSMo 2000*. Original rule filed April 17, 1998, effective Nov. 30, 1998. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.125 Certification Renewal.** The commission is amending the Purpose of this rule, as well as section (1) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*. In addition, this amendment changes the wording “MICS certifications” to “certifications in the Missouri Interpreters Certification System” everywhere that the phrase appears in the rule.

**PURPOSE:** This rule outlines the procedures for filing for renewal of [MICS] certifications in the Missouri Interpreters Certification System.

(1) All holders of [MICS] certifications in the Missouri Interpreters Certification System shall renew their certifications annually by submitting the following items to the Board for Certification of Interpreters on or before sixty (60) days prior to the licensing date established by the Missouri State Committee of Interpreters:

**AUTHORITY:** sections 209.295(1), (2) and (8), 209.309 and 209.311, *RSMo 2000*. Original rule filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.130 Certification Maintenance.** The commission is amending the Purpose and sections (1) and (6) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*. In addition, this amendment eliminates the requirement that the Board for Certification of Interpreters notify all applicants, as well as the State Committee of Interpreters, of the number of CEUs that interpreters have earned for the year.

**PURPOSE:** This rule provides information regarding the minimum requirements for certification maintenance in the Missouri Interpreters Certification System.

(1) Annual participation in a continuing education program is required for interpreters certified in the Missouri Interpreters Certification System (MICS). This program involves study and performance options which must have prior approval from the Board for Certification of Interpreters (BCI) and which fulfill the requirements for certification maintenance in the MICS. This program may include seminars, lectures, conferences, workshops, extension study, correspondence courses, teaching, mentorship, self-study and other options, all of which must be approved by the BCI and must be related to interpreting.

(6) The BCI will review and verify all MICS CEUs claimed in the CEU forms submitted. [After verification, the BCI will notify all applicants, as well as the State Committee of Interpreters, of the number of CEUs interpreters have earned for the year.]

**AUTHORITY:** sections 209.292(10) *RSMo Supp. 2003* and 209.295(1), (6) and (8), *RSMo 2000*. Original rule filed June 20, 1996, effective Jan. 30, 1997. Amended: Filed April 17, 1998, effective Nov. 30, 1998. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson

City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.140 Name and Address Change.** The commission is amending the Purpose of this rule, as well as sections (1)–(3) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule. It also adds the letters “HH” to the abbreviation “MCD” everywhere that the abbreviation appears in the rule.

**PURPOSE:** This rule outlines the requirement for interpreters certified in the Missouri Interpreters Certification System to notify the Missouri Commission for the Deaf and Hard of Hearing of any changes in name or address.

(1) Interpreters who hold a certification in the Missouri Interpreters Certification System shall always ensure that the Missouri Commission for the Deaf and Hard of Hearing (MCDHH) has their current legal name and address on file.

(2) An interpreter whose name has legally changed shall inform the MCDHH of that name change in writing within thirty (30) days of the effective date of change, and provide a copy of the appropriate document verifying the name change.

(3) An interpreter whose address has changed shall inform the MCDHH of that address change in writing within thirty (30) days of the effective date of change.

**AUTHORITY:** section 209.295(1) and (8), RSMo 2000. Original rule filed April 17, 1998, effective Nov. 30, 1998. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.150 Fees.** The commission is amending the Purpose of this rule, as well as sections (1)–(3) of this rule.

**PURPOSE:** This amendment adds the phrase “in the Missouri Interpreters Certification System” in two places to clarify that this listing of fees includes only MCDHH fees that are associated with the Missouri Interpreters Certification System. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule. It also adds the letters “HH” to the abbreviation “MCD” everywhere that the abbreviation appears in the rule.

**PURPOSE:** The following schedule outlines the fees required for [the] various [certification] processes and services in the Missouri Interpreters Certification System.

(1) The following fees are established by the Missouri Commission for the Deaf and Hard of Hearing for various processes and services in the Missouri Interpreters Certification System (MICS):

(2) All fees for [the various] MICS certification processes and services are nonrefundable.

(3) Payment of all fees must be made in the form of either a cashier’s check or money order made payable to “MCDHH/BCI Fund.” No personal checks or cash will be accepted.

**AUTHORITY:** sections 209.292(7), RSMo Supp. 2003, 209.295(2) and 209.311, RSMo 2000. Original rule filed June 20, 1996, effective Jan. 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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**PROPOSED AMENDMENT**

**5 CSR 100-200.170 Skill Level Standards.** The commission is amending sections (3)–(6) and (8)–(15) of this rule.



**PURPOSE:** This amendment makes some grammatical changes and corrections to the rule. In addition, in 2002 the Missouri legislature made statutory changes that mandate the recognition in Missouri of specific certifications issued by the Registry of Interpreters for the Deaf (CSC, CI/CT and CDI certifications) and the National Association of the Deaf (Level 3, 4 and 5 certifications). This amendment adds those specified certifications to the standards concerning the certification levels that are appropriate for interpreters to practice in various interpreter settings.

(3) These standards are developed to protect the health, welfare and safety of consumers. These standards are not intended to be all-inclusive regarding potential interpreting assignments. The standards show both consumers and interpreters the skill levels that are appropriate for interpreting in various settings. Should questionable areas of practice arise, [contact the Missouri Commission for the Deaf] see 4 CSR 232-3.010.

(4) For the purpose of this rule, [all MICS] certifications [obtained through performance evaluation] in the Missouri Interpreters Certification System are referred to as follows:

(5) For the purpose of this rule, certifications issued by the Registry of Interpreters for the Deaf (RID) and recognized by the Board for Certification of Interpreters (BCI) pursuant to 209.322(1), RSMo are referred to as follows:

- |  |       |
|--|-------|
| (A) Comprehensive Skills Certificate (CSC)                             | = Adv |
| (B) Certificate of Interpreting/Certificate of Transliterating (CI/CT) | = Adv |
| (C) Certified Deaf Interpreter (CDI)                                   | = CDI |

(6) For the purpose of this rule, certifications issued by the National Association of the Deaf (NAD) and recognized by the BCI pursuant to 209.322(2), RSMo are referred to as follows:

- |                 |       |
|-----------------|-------|
| (A) NAD level 5 | = Com |
| (B) NAD level 4 | = Adv |
| (C) NAD level 3 | = Int |

[(5)](7) Effective July 1, 2003, the standards set forth in sections (6) through (13) are established for the use and guidance of interpreters in Missouri. Interpreters practicing interpreting in the settings specified below should hold one of the certifications listed as appropriate for interpreting in those settings.

[(6)](8) LEGAL SETTING	APPROPRIATE CERTIFICATIONS
(A) Criminal (Felony).....Com/CDI	
1. Arraignment	
2. Post bond	
3. Pre-Trial release	
4. Attorney conference	
5. Judicial proceedings	
6. Courtroom	
7. Deposition	
8. Testimony	
9. Grand jury	
10. Jury duty	
(B) Criminal (Misdemeanor) .....Com/Adv/CDI	
1. Arraignment	
2. Post bond	
3. Pre-Trial release	
4. Attorney conference	
5. Judicial proceedings	
6. Courtroom	
7. Deposition	
8. Testimony	
9. Grand jury	
10. Jury duty	

(C) Civil (Major) .....Com/Adv/CDI	
1. Attorney conference	
2. Civil Court proceedings	
3. Lawsuit	
4. Contested divorce	
5. Peace bond/restraining order	
6. Contested wills and trusts	
7. Bankruptcy	
(D) Civil (Minor) .....Com/Adv/CDI	
1. Traffic court	
2. Small claims court	
3. Attorney conference	
4. Civil court proceedings	
5. Uncontested divorce	
6. Wills and trusts	
(E) Juvenile Court and Family Court .....Com/CDI	
1. Child abuse/welfare	
2. Child adoption	
3. Child custody	
4. Termination of parental rights	
5. Crimes by children under age 17	
(F) Legal Consultation/Advice.....Com/Adv/CDI	
1. Any consultation given by an attorney	
(G) Law Enforcement .....Com/CDI	
1. Arrest and process	
2. Post bond	
3. Confession	
4. Interrogation	
5. Investigation	
6. Witness interview	
7. Crisis intervention	
(H) Law Enforcement Education Programs .....Com/Adv/Int/CDI	
1. Any program that promotes safety, protection, and prevention by [the] federal, state, county, or local law enforcement agencies	
(I) Correctional .....Com/Adv/CDI	
1. Probation/parole meeting	
2. Disciplinary hearing	
3. Parole hearing	
4. Inmate evaluation/assessment	
(J) Correctional Education/Rehabilitation Programs Com/Adv/Int/CDI	
1. Any program for the education or rehabilitation of inmates in a correctional system	

[(7)](9) MEDICAL SETTING	APPROPRIATE CERTIFICATIONS
(A) Medical (Serious) .....Com/CDI	
1. Emergency room	
2. Any complicated surgery and medical procedure	
3. Life-threatening health problem	
4. Obstetrics	
(B) Medical (Routine) .....Com/Adv/CDI	
1. Offices and clinics of doctors of medicine	
2. Offices and clinics of dentists	
3. Offices and clinics of chiropractors	
4. Offices and clinics of optometrists	
5. Offices and clinics of audiologists/speech pathologists	
6. Offices and clinics of dietitians/nutritionists	
7. Visiting health care provider (nurse, doctor, therapist)	
8. Hospital (Nonthreatening)	
(C) Nursing and Personal Care Facilities .....Com/Adv/Int/CDI	
1. Convalescent homes	
2. Nursing homes	
3. Home health care services	
4. Hospice	
(D) Community Health Education .....Com/Adv/Int/App/CDI	
1. Any self-help program relating to health/well-being	

2. Any program/s/ or *[activities]* activity in the community for the public, offered by hospitals/clinics and private medical organizations that promotes health/well-being.

**//(8)/(10) MENTAL HEALTH SETTING APPROPRIATE CERTIFICATIONS**

- (A) Mental Health (Serious) .....Com/CDI  
1. Mental hospitals  
2. Psychiatric hospitals  
3. Psychiatric units within hospitals  
4. Crisis intervention
- (B) Mental /h/Health (Clinical—Routine) .....Com/Adv/CDI  
1. Offices and clinics of psychiatric social workers  
2. Offices and clinics of psychiatrists  
3. Offices and clinics of psychologists  
4. Offices and clinics of psychotherapists  
5. Offices and clinics of counselors
- (C) Mental Health (Nonclinical—Routine) .....Com/Adv/Int/CDI  
1. Alcoholics anonymous program  
2. Narcotics anonymous program  
3. Any 12-step program and self-help program relating to mental health and/or well-being  
4. Treatment planning meeting  
5. Residential care facility  
6. Group home
- (D) Transition Service .....Com/Adv/Int/App/CDI  
1. Independent living skills  
2. Job coaching

**//(9)/(11) EDUCATION SETTING APPROPRIATE CERTIFICATIONS**

- (A) Academic *[(k-6)] (Kindergarten-Grade 6)*...Com/Adv/Int/  
RCED (K-6)/  
RCED(Gen)/CDI
- (B) Academic *[(7-12)] (Grade 7-Grade 12)* .....Com/Adv/Int/  
RCED (7-12)/  
RCED (Gen)/CDI
- (C) Academic (Post Secondary) .....Com/Adv/Int/CDI  
1. Colleges, Universities and Professional Schools  
2. Junior Colleges and Technical Institutes  
3. Continuing Education  
4. Adult Basic Education
- (D) Educational Assessment .....Com/Adv/Int/CDI  
1. Psychological Testing  
2. Language Testing  
3. Developmental Testing  
4. Intelligence Testing
- (E) Educational Conferences .....Com/Adv/Int/CDI  
1. Individualized Education Plan Conference  
2. Parent/Teacher Conference  
3. Parent/School Administrator Conference
- (F) Professional Development .....Com/Adv/Int/CDI  
1. Conferences  
2. Seminars  
3. Workshops  
4. Training
- (G) Community Education .....Com/Adv/Int/App/CDI  
1. Any program/s/ or *[activities]* activity offered by schools, colleges or universities in the community that promotes learning.

**//(10)/(12) EMPLOYMENT SETTING APPROPRIATE CERTIFICATIONS**

- (A) Employment Actions .....Com/Adv/CDI  
1. Interview  
2. Hiring/firing  
3. Disciplinary
- (B) Employment Maintenance .....Com/Adv/Int/CDI  
1. Staff meetings

2. Employee/employer meetings  
3. Safety workshops  
4. Training/seminars/workshops  
5. Performance appraisal  
6. Union meeting

- (C) Vocational Training .....Com/Adv/Int/App/CDI  
1. Job training  
2. Job coach  
3. Vocational counseling  
4. Vocational assessment  
5. Any training/workshop/s/ promoting employment

**//(11)/(13) FINANCIAL SETTING APPROPRIATE CERTIFICATIONS**

- (A) Purchasing .....Com/Adv/Int/CDI  
1. Real estate  
2. Insurance
- (B) Financial Management .....Com/Adv/Int/CDI  
1. Credit counseling  
2. Repossession  
3. Major loans  
4. Retirement  
5. Tax preparation

**//(12)/(14) GOVERNMENT SETTING APPROPRIATE CERTIFICATIONS**

- (Federal, State, City, County)
- (A) Administrative Proceedings/Hearings (Non-Legal) Com/Adv/CDI  
1. Filing complaint  
2. Investigation  
3. Testimony  
4. Hearing  
5. Appeal  
6. Audit
- (B) Social Services .....Com/Adv/CDI  
1. Any Division of Youth Services *[activities]* activity  
2. Any Division of Family Services *[activities]* activity
- (C) Public Meeting .....Com/Adv/Int/CDI  
1. Agency/board/commission/council meeting  
2. Legislative assembly  
3. Individuals meeting with public official
- (D) Benefits/Services .....Com/Adv/Int/App/CDI  
1. Food stamps  
2. Drivers' license testing  
3. Voter registration  
4. Welfare  
5. Social security  
6. Unemployment benefits  
7. Medicare/*m*/Medicaid  
8. Any type of governmental benefits or services
- (E) Recreational/education programs .....Com/Adv/Int/App/Nov/CDI  
1. Federal and state parks  
2. Missouri history  
3. Conservation  
4. National resources  
5. Energy saver  
6. Environment  
7. Natural disaster awareness  
8. Public awareness  
9. Recreational activities  
10. Any program/s/ or *[activities]* activity offered by a public *[entities that]* entity to increase the public's awareness *[in]* of government, safety, health, economics, appreciation, protection, etc.

// (13)/(15) ENTERTAINMENT SETTING	APPROPRIATE CERTIFICATIONS
(A) Performing Arts (Unrehearsed).....	Com/Adv/Int/App/CDI
1. Theaters	
2. Concerts	
3. Comedy shows	
4. Magic shows	
5. Any type of stage performance/s/	
(B) Performing Arts (Rehearsed) .....	Com/Adv/Int/App/Nov/CDI
1. Theaters	
2. Concerts	
3. Comedy shows	
4. Magic shows	
5. Any type of stage performance/s/	
(C) Social Activities .....	Com/Adv/Int/App/Nov/CDI
1. Festivals	
2. Fairs	
3. Sport leagues	
4. Sight-Seeing tours	
5. Rodeos	
6. Circuses	
7. Recitals	
8. Carnivals	
9. Amusement parks	
10. Camps	
11. Any type of [activities] activity for entertainment purposes only	

**AUTHORITY:** sections 209.292(5) and (8), *RSMo [2000] Supp. 2003*. Original rule filed Nov. 27, 1996, effective July 30, 1997. Amended: Filed April 17, 1998, effective Nov. 30, 1998. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 100—Missouri Commission for the Deaf and  
Hard of Hearing  
Chapter 200—Board for Certification of Interpreters**

**PROPOSED AMENDMENT**

**5 CSR 100-200.180 Grievance Procedure and Appeal Rights.** The commission is amending sections (1)–(6) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*. In 2002 the Missouri legislature changed the name of the “Missouri Commission for the Deaf” to the “Missouri Commission for the Deaf and Hard of Hearing.” This amendment

adds the words “and Hard of Hearing” to the name “Missouri Commission for the Deaf” everywhere that the name appears in the rule. It also adds the letters “HH” to the abbreviation “MCD” everywhere that the abbreviation appears in the rule.

(1) Applicants for certification may file a grievance against the Missouri certification process by filing a complaint in writing with the Board for Certification of Interpreters (BCI) at the office of the Missouri Commission for the Deaf and Hard of Hearing (MCDHH) within thirty (30) days after the coordinator of the Missouri Interpreters Certification System (MICS) mails notice to the applicant of the applicant’s certification evaluation results or of the denial of a certification to the applicant.

(A) All complaints must contain a detailed explanation of the reason(s) for the complaint, the full name, address, and telephone number of the person making the complaint, a statement of what action the complainant is requesting to be taken by the BCI and/or the MCDHH, and the written signature of the person making the complaint.

(B) Complaints may be filed by mail, by facsimile transmission followed by hard copy within ten (10) days of the transmission, or by other delivery to the MCDHH office.

(2) All complaints shall first be reviewed and evaluated by the BCI.

(D) Such notification shall inform the person filing the complaint of their right to appeal that decision to the MCDHH.

(3) Within thirty (30) days after the BCI mails notice of its determination to the person filing the complaint, the complainant may appeal the BCI’s decision by filing a written request for review with the MCDHH.

(A) Any such appeal must contain a detailed explanation of the reason(s) for the appeal, the full name, address, and telephone number of the person making the appeal, a statement of what action the complainant is requesting to be taken by the MCDHH, and the written signature of the person making the appeal.

(B) Any such appeal may be filed by mail, by facsimile transmission followed by hard copy within ten (10) days of the transmission, or by other delivery to the MCDHH office.

(4) The MCDHH shall hold a hearing pursuant to the administrative procedures set forth in Chapter 536, RSMo, as such are adopted by section 621.135, RSMo.

(A) After a hearing, the MCDHH shall evaluate the appeal and make a determination based on the facts of the situation.

(B) The person filing the appeal shall be notified in writing of the MCDHH’s determination.

(5) The complainant may file an appeal of the MCDHH’s decision pursuant to section 536.100, RSMo, as such is adopted by section 621.135, RSMo. The MCDHH’s notification to the complainant of its decision shall inform the complainant of his/her right to appeal that decision pursuant to section 536.100, RSMo.

(6) Information regarding formal complaints and appeals will be kept confidential by all members of the BCI, MCDHH, and staff of the MCDHH, insofar as confidentiality is required and allowed by law.

**AUTHORITY:** sections 209.292(13), *RSMo Supp. 2003*, 209.295(8), 209.314 and 209.317, *RSMo 2000*. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.



**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 100—Missouri Commission for the Deaf and  
Hard of Hearing  
Chapter 200—Board for Certification of Interpreters**

**PROPOSED AMENDMENT**

**5 CSR 100-200.210 Reinstatement.** The commission is amending the Purpose of this rule, as well as section (3) of this rule.

**PURPOSE:** This amendment adds the letter “s” to the word “Interpreter” in the name “Missouri Interpreter Certification System” everywhere that the name appears in the rule so that the spelling of the name agrees with the spelling in the *Revised Statutes of Missouri*.

**PURPOSE:** This rule establishes requirements for reinstatement in the Missouri Interpreters Certification System of certifications that have been suspended, revoked, or lapsed for failure to renew.

(3) The Board for Certification of Interpreters (BCI) will automatically reinstate the certification of any interpreter whose certification was not renewed for failure to comply with certification maintenance requirements upon evidence to the BCI of the following:

(A) Completion of one and two-tenths (1.2) Missouri Interpreters Certification System continuing education units for every applicable year as set forth in 5 CSR 100-200.130; and

**AUTHORITY:** section 209.295(2) and (8), RSMo 2000. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Commission for the Deaf and Hard of Hearing, Dr. Roy E. Miller, Executive Director, 1103 Rear Southwest Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after the publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 26—Arbitration and Mediation of Construction  
Disputes**

**PROPOSED RULE**

**7 CSR 10-26.010 Selection of Arbitrator in Arbitration Proceedings**

**PURPOSE:** This rule provides for the selection of arbitrators in arbitration proceedings.

(1) Demands for arbitration relating to any controversy or claim under the contract with Missouri Highways and Transportation Commission (Section 105.16 of the Missouri Standard Specifications for Highway Construction or its revisions) when the claim exceeds twenty-five thousand dollars (\$25,000) but does not exceed seventy-five thousand dollars (\$75,000), shall have appointed one (1) arbitrator using the “Fast Track Procedures” set forth in the *American Arbitration Association, Construction Industry Arbitration Rules and Mediation Procedures*, effective on the date the demand for arbitration is filed.

(2) Demands for arbitration relating to any controversy or claim under the contract with Missouri Highways and Transportation Commission (Section 105.16 of the Missouri Standard Specifications for Highway Construction or its revisions) when the claim exceeds seventy-five thousand dollars (\$75,000), but is less than three hundred twenty-seven thousand dollars (\$327,000) as adjusted as provided in section 226.096, RSMo (L. 2003, HB 668), shall have appointed one (1) arbitrator using the “Regular Track Procedures” set forth in the *American Arbitration Association rules*, effective on the date the demand for arbitration is filed.

(3) The arbitrator shall be selected according to the procedures provided by the *American Arbitration Association rules*, except as otherwise provided in this rule.

(A) Arbitrators shall be registered professional engineers for at least fifteen (15) years or shall be a construction industry professional with a minimum of fifteen (15) years experience in construction.

(B) After filing of the submission or the answering statement or the expiration of the time within which the answering statement is to be filed, the *American Arbitration Association* shall send each party in the dispute an identical copy of a specially prepared list of proposed arbitrators to resolve the controversy.

(C) The parties will be allowed fifteen (15) days to examine the list, strike names to which they object, number the remaining names in the order of preference, and return the list to the *American Arbitration Association*.

(D) The lists will be returned to the *American Arbitration Association* by the two (2) parties. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the *American Arbitration Association* shall invite the acceptance of an arbitrator to serve. If the parties fail to agree on any of the persons named, or if acceptable arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the *American Arbitration Association* shall have the power to make the appointment from among other members of the *National Roster* without the submission of additional lists. In no case shall an arbitrator be appointed who was struck from the original lists by either party.

(E) Arbitrators appointed by *American Arbitration Association* under this provision will meet the qualifications of subsection (3)(A).

**AUTHORITY:** sections 226.096 RSMo Supp. 2003 and 226.130 and 536.016, RSMo 2000. Original rule filed Nov. 5, 2003.

**PUBLIC COST:** This proposed rule will cost state agencies or political subdivisions forty-nine thousand six hundred twenty-five dollars (\$49,625) in the aggregate.

**PRIVATE COST:** This proposed rule will cost private entities sixty-three thousand eight hundred seventy-five dollars (\$63,875) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Mari Ann Winters, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 26 - Arbitration and Mediation of Construction Disputes

Type of Rulemaking: Proposed Rule

Rule Number and Name: 7 CSR 10-26.010, Selection of Arbitrators in Arbitration Proceeding.

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost in the Aggregate.
Missouri Department of Transportation (MoDOT)	\$49,625.00 per year

**III. WORKSHEET**

**ARBITRATION FEES**

(Fast Track)

1 Arbitrator @ \$200/hr.

1-day documentation review

1 day hearing

1 day – written findings

Total 3 days @ 8hrs/day @ \$200/hr = \$4,800.00

1 hearing room @ \$150.00/day = \$150.00

Arbitrator expenses (\$200/day x 3 days) = \$600.00

MoDOT (Fast Track) share @ 50% = \$2,775.00 each.

Estimate 10 arbitrations (Fast Track) per year (10 x \$2775.00) = \$ 27,750.00

(Regular Track)

1 Arbitrator @ \$200/hr.

1-day documentation review

1 day hearing

2 days discussion and written findings

Total 4 days @ 8hrs/day @ \$200/hr = \$6,400.00



1 hearing room @ \$150.00/day  
Arbitrator expense (\$200/day x 4 days) = \$800.00

MoDOT Regular Track share @ 50% = \$3,675.00 each

Estimate 5 arbitrations (Regular Track) per year (5 x \$3,675.00) = \$18,375.00

MoDOT Filing Fees

Fast Track 1 @ \$750.00

Regular Arbitration 1 @ \$2,750.00

Total Filing Fees \$ 3,500.00

Total Cost to MoDOT per year \$49,625.00

**Total Estimated Costs for FY 2005 and Subsequent Years \$49,625.00**

**IV. ASSUMPTIONS**

1. MoDOT estimates a minimum of 15 claims will proceed to arbitration per year.
2. Controversies will proceed through the claims process.
3. The timeline established for implementation of the process requires a claims review in 90 days for each issue before the start of binding arbitration.
4. Arbitration costs are based on general estimates provided by the American Arbitration Association and assume joint participation between the contractor and MoDOT.
5. Arbitrations initiated by MoDOT and the associated filing fees are estimated at two per year (1 fast track and 1 regular track).
6. Any other costs not identified in this fiscal note are unforeseeable.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 26 - Arbitration and Mediation of Construction Disputes

Type of Rulemaking: Proposed Rule

Rule Number and Name: 7 CSR 10-26.010, Selection of Arbitrators in Arbitration Proceeding.

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost in the Aggregate.
15 Contractors	\$63,875.00

**III. WORKSHEET**

**ARBITRATION FEES**

(Fast Track)

1 Arbitrator @ \$200/hr.

1-day documentation review

1 day hearing

1 day -- written findings

Total 3 days @ 8hrs/day @ \$200/hr = \$4,800.00

1 hearing room @ \$150.00/day = \$150.00

Arbitrator expenses (\$200/day x 3 days) = \$600.00

Contractor (Fast Track) share @ 50% = \$2,775.00 each.

Estimate 10 arbitrations (Fast Track) per year (10 x @ \$2,775.00) = \$27,750.00

(Regular Track)

1 Arbitrator @ \$200/hr.

1-day documentation review

1 day hearing

2 days discussion and written findings

Total 4 days @ 8 hrs/day @ \$200/hr. = \$6,400.00

1 hearing room @ \$150.00/day  
Arbitrator expense 1@ \$200/day@4 days = \$800.00

Contractor Regular Track share @ 50% = \$3,675.00 each.

Estimate 5 arbitrations (Regular Track) per year (5 x \$3,675.00) = \$18,375.00

Contractor Filing Fees

Fast Track 9 @ \$750.00

Regular Arbitration 4 @ \$2750.00

Total Filing Fees \$ 17,750.00

Total Cost to Contractors per year \$63,875

**Total Estimated Costs for FY 05 and Subsequent Years \$63,875.00**

#### IV. ASSUMPTIONS

1. The estimate assumes a minimum of 15 claims per year will proceed to arbitration
2. Controversies will proceed through the claims process.
3. Arbitration costs are based on general estimates provided by the American Arbitration Association and assume joint participation between the contractor and MoDOT.
4. Arbitrations initiated by contractors and the associated filing fees are estimated at thirteen per year (9 Fast Track and 4 Regular Track).
5. Contractors' administrative costs will vary by individual company and are not included in this estimate.
6. Any other costs not identified in this fiscal note are unforeseeable.



**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 26—Arbitration and Mediation of Construction  
Disputes**

**PROPOSED RULE**

**7 CSR 10-26.020 Mediation**

*PURPOSE: This rule provides for a mediation process to settle contract disputes.*

(1) If a claim which exceeds twenty-five thousand dollars (\$25,000), but is less than three hundred twenty-seven thousand dollars (\$327,000) as adjusted as provided in section 226.096, RSMo (L. 2003, HB 668), arises on a contract awarded by the Missouri Department of Transportation, mediation of such claims shall be initiated if agreed to by both parties.

(2) The mediation procedures used shall be the procedures provided in the *American Arbitration Association, Construction Industry Arbitration Rules and Mediation Procedures*, effective on the date mediation was agreed upon.

*AUTHORITY: sections 226.096, RSMo Supp. 2003 and 226.130 and 536.016, RSMo 2000. Original rule filed Nov. 5, 2003.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions five thousand one hundred dollars (\$5,100) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities five thousand one hundred dollars (\$5,100) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Mari Ann Winters, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC ENTITY COST****I. RULE NUMBER**Title: 7 - Department of TransportationDivision: 10 - Missouri Highways and Transportation CommissionChapter: 26 - Arbitration and Mediation of Construction DisputesType of Rulemaking: Proposed RuleRule Number and Name: 7 CSR 10-26.020, Mediation**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost in the Aggregate.
Missouri Department of Transportation (MoDOT)	\$5,100.00

**III. WORKSHEET****MEDIATION FEES**

1 Mediator @ \$200.00/hr.

2 day duration @ 8 hours per day = \$3,200.00

AAA administration fee - \$75.00/hour x 16 hours = \$ 1,200.00

Facility - \$150.00/day x 2 days = \$ 300.00

AAA Mediator Expense @ \$200/day x 2 days= \$ 400.00

Total \$5,100.00

2 Mediations per year (2 x \$5,100.00)= \$10,200.00

MoDOT's share @50% = \$5,100.00

Total cost to MoDOT per year = \$5,100.00**Total Estimated Costs for FY 05 and Subsequent Years****\$5,100.00****IV. ASSUMPTIONS**

1. With the availability of binding arbitration at the request of either party and the requirement for both parties to agree to mediation that is non-binding, two mediations are estimated per year.
2. Contractors and MoDOT will not require additional personnel resources for mediation.
3. Costs are shared equally between MoDOT and the Contractor.
4. Any other costs not identified in this fiscal note are unforeseeable.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 26 - Arbitration and Mediation of Construction Disputes

Type of Rulemaking: Proposed Rule

Rule Number and Name: 7 CSR 10-26.020, Mediation

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost in the Aggregate.
2 Contractors	\$5,100.00

**III. WORKSHEET**

**MEDIATION FEES**

1 Mediator @ \$200.00/hr.

2 day duration @ 8 hours per day = \$3,200.00

AAA administration fee - \$75.00/hour x 16 hours = \$ 1,200.00

Facility - \$150.00/day x 2 days = \$ 300.00

AAA Mediator Expense @ \$200/day x 2 days= \$ 400.00

Total \$5,100.00

2 Mediations per year (2 x \$5,100.00)= \$10,200.00

Contractor's share @50% = \$5,100.00

Total cost to Contractor per year = \$5,100.00

**Total Estimated Costs for FY 05 and Subsequent Years**

**\$5,100.00**

**IV. ASSUMPTIONS**

1. With the availability of binding arbitration at the request of either party and the requirement for both parties to agree to mediation that is non-binding, two mediations are estimated per year.
2. Contractors and MoDOT will not require additional personnel resources for mediation.
3. Costs are shared equally between MoDOT and the Contractor.
4. Any other costs not identified in this fiscal note are unforeseeable.



**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 20—Clean Water Commission**  
**Chapter 7—Water Quality**

**PROPOSED RULE**

**10 CSR 20-7.050 Methodology for Development of Impaired Waterbody List**

*PURPOSE: This rule describes the process used to develop the list of impaired waterbodies as required by the Federal Clean Water Act, section 303(d), for the purpose of identifying those waterbodies that do not fulfill their designated uses and prioritizing waterbodies for the development of total maximum daily loads.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) Acceptable Water Quality Data for Use in Compiling the List of Impaired Waters.

(A) The Missouri Department of Natural Resources (the department) will receive and review all data submitted, and will use all scientifically defensible data. Scientifically defensible data will include, but will not be limited to, data meeting the following requirements:

1. All environmental data generated directly by the department or through contracts funded by the department or the United States Environmental Protection Agency (USEPA) that are governed by a Quality Assurance Project Plan (QAPP) as required by the Total Quality Management Plan completed by the department and USEPA. The organization responsible for collection or collection and analysis of the environmental sampling must write and adhere to a QAPP approved by the quality assurance manager of the department; and

2. All environmental data collected by any other agencies, organizations or individuals that are governed by an internal quality assurance program that has been reviewed and approved by the department.

(B) Data that is less than five (5) years old is to be preferred, but data that is over five (5) years old may also be used to form the proposed 303(d) list. Data collected prior to significant events with potential impacts on water quality in a given water shall not be used to assess the present condition of the water, but may be used in assessing any change that has occurred in the quality of the water.

(C) The department shall recognize four (4) levels of assurance for water quality data. In general, only data of Level 2 or higher shall be used to support additions, deletions, or changes to the proposed 303(d) list, unless the problem can be accurately characterized by Level 1 data, for example when sample variances of key water quality constituents are low enough to offset the small sample size. These four (4) levels are:

1. Level 1: Small amounts of chemical data (generally collected quarterly or less often for three (3) or fewer years), qualitative sampling of invertebrates or fish, or visual observations of streams.

2. Level 2:

A. Larger amounts of chemical data, generally collected quarterly to bimonthly for at least three (3) years, and sufficient to characterize typical water quality, or intensive studies that monitor several nearby sites repeatedly over short periods of time; or

B. Quantitative biological monitoring of one (1) major aquatic assemblage (fish, macroinvertebrates, or algae) at one (1) site, once annually; or

C. Fish tissue analysis.

3. Level 3:

A. Large amounts of chemical data with at least monthly sampling for more than three (3) years and providing data on a wide variety of water quality constituents, including heavy metals and pesticides; or

B. Quantitative biological monitoring of at least one (1) major aquatic assemblage at multiple sites.

4. Level 4:

A. Large amounts of chemical data with at least monthly sampling for more than three (3) years and providing data on a wide variety of water quality constituents, including heavy metals and pesticides, and including chemical sampling of sediments and fish tissue; or

B. Quantitative biological monitoring of at least two (2) major aquatic assemblages at multiple sites.

(2) How Water Quality Data is Evaluated to Determine Whether Waters are Impaired.

(A) The department shall follow the recommended guidelines of USEPA (Guidelines for the Preparation of the Comprehensive State Water Quality Assessments (305(b) Reports) and Electronic Updates: Supplement, EPA, Sept. 1997, and any subsequent, superseding guidelines) to evaluate physical, chemical, biological, and toxicological data and determine whether any designated beneficial uses of waters are not being fully met. If any designated beneficial uses of a water are determined to not be fully met, that water will be considered impaired.

(B) The following means may also be used to determine whether waters are impaired. This list is not all-inclusive.

1. Missouri's narrative water quality criteria as described in 10 CSR 20-7.031, section (3) may be used to evaluate waters.

2. Habitat assessment protocols for Wadeable Streams, as developed by the department, may be used to help determine if a given stream attains the beneficial use of Protection of Aquatic Life (10 CSR 20-7.031 paragraphs (1)(C)5.-6.). These assessments must be made in conjunction with the collection and analysis of aquatic invertebrate data.

3. In watersheds that do not have monitoring data, the presence or absence of certain types of water quality impairment may be judged based on actual monitoring data from a stream draining a watershed with very similar geology and land use.

4. The department shall review the proposed 303(d) lists of all states with which Missouri shares border waters (Des Moines River, Mississippi River, Missouri River, and St. Francis River). When another state lists one of those waters differently than it is listed by Missouri, the department will request the data justifying that listing in the other state. Those data will be reviewed according to established data evaluation guidelines, and Missouri's listing of that water may be changed, according to the result of that evaluation. In the case of a water that crosses into or out of Missouri, if that water's proposed 303(d) listing status changes at the state line, the department shall, upon the request of the bordering state, EPA, or another interested party, review and evaluate the data justifying that water's listing in the other state. The review will take place according to established data evaluation guidelines, and Missouri's listing of that water may be changed, according to the result of that evaluation.

(3) Creation of the Proposed 303(d) List.

(A) A water shall be added to or retained on the proposed 303(d) list if that water's data, when analyzed according to the procedure described in section (2), indicates that the water is impaired. All water on the list shall be accompanied by the pollutant or pollutants causing the water's impairment, if known. The extent of the listed portion of a previously listed water may be increased, or one (1) or more new pollutants may be added to the list of impairments for a previously listed water, using recent monitoring data and the aforementioned procedure.

(B) A water shall be omitted or deleted from the proposed 303(d) list if that water's data, when analyzed according to the procedure described in section (2), indicates that that water is not impaired. Similarly, the extent of the listed portion of a previously listed water may be decreased, or one (1) or more pollutants may be removed from the list of impairments for a previously listed water, using recent monitoring data and the aforementioned procedure.

(C) The department shall divide its proposed 303(d) list into five (5) parts, as recommended by the EPA in Consolidated Assessment and Listing Methodology: Toward a Compendium of Best Practices: Draft for State Review and Comment, and any subsequent, superseding federal guidelines.

(D) The department shall establish priority ratings or schedules for the creation of total maximum daily loads (TMDLs) for waters on the proposed 303(d) list in accordance with the Federal Clean Water Act, section 303(d), part 130:28, and any subsequent, superseding federal guidelines.

*AUTHORITY:* section 644.026, RSMo 2000. Original rule filed Nov. 5, 2003.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing on this proposed rule will begin at 9:00 a.m., January 28, 2004. The public hearing will be held at the Governor Office Building, 200 Madison Street, Room 450, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to the Secretary of the Clean Water Commission, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-6721. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m. February 11, 2004. Written comments shall be sent to the Secretary of the Clean Water Commission, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 6—Operation of the Riverboat**

**PROPOSED AMENDMENT**

**11 CSR 45-6.030 [Weapons] Firearms on the Riverboat.** The division is amending section (1) and creating section (2).

*PURPOSE:* The commission proposes to amend this rule by describing how consent may be given by owners or managers to permit a person to carry a firearm onto an excursion gambling boat.

(1) The only individuals who may carry a [weapon] firearm on an excursion gambling boat **without the approval of the owner or general manager of the excursion gambling boat** are commission agents, law enforcement officials *[acting in their official capacities]* as described in **section 571.030.2, RSMo**, security personnel authorized by the excursion gambling boat and security personnel under contract with Class A licensees to transport money. Any other person must obtain approval from the *[commission]* **owner or general manager of the excursion gambling boat** prior to carrying any [weapon] firearm on an excursion gambling boat. **Any owner or general manager giving permission for a person to carry a firearm onto an excursion gambling boat shall notify the commission agent on duty in writing on a form approved by the com-**

**mission immediately upon granting permission. Such notice to the commission agent shall identify the person to whom the permission was granted, verify that the person to whom permission was granted is in possession of a current, valid concealed carry endorsement issued pursuant to section 571.094, RSMo, and contain the signature of the owner or general manager. Each Class A licensee shall provide to the commission a current list of all persons authorized to execute on its behalf the notice required by this section.**

(2) Excursion gambling boat licensees shall notify the commission of the licensee's security personnel who have been authorized by the licensee to carry firearms. Such security personnel must be in compliance with applicable state and local requirements regarding the carrying of firearms.

*AUTHORITY:* sections 313.004 and 313.805, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed March 18, 1996, effective Oct. 30, 1996. Amended: Filed Sept. 2, 1997, effective March 30, 1998. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Nov. 5, 2003.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will cost private entities approximately one thousand one hundred dollars (\$1,100) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for January 20, 2004, at 10:00 a.m. in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, MO 65109.

**FISCAL NOTE  
PRIVATE ENTITY COST****I. RULE NUMBER**Title: 11 - DEPARTMENT OF PUBLIC SAFETYDivision: 45 - Missouri Gaming CommissionChapter: 6 – Operation of the RiverboatType of Rulemaking: Proposed AmendmentRule Number and Name: 11 CSR 45-6.030 – Firearms on the Riverboat**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
11	Class A Licensees	\$1,100

**III. WORKSHEET**

11 Class A Licensees x \$100 for estimated cost in labor and materials to prepare a consent notice form = \$1,100

**IV. ASSUMPTIONS**



**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 80—Missouri State Water Patrol  
Chapter 5—Aids to Navigation and Regulatory Markers**

**PROPOSED AMENDMENT**

**11 CSR 80-5.010 Approval of Aids to Navigation and Regulatory Markers.** The patrol is amending the purpose and sections (1)–(5) and (9)–(10) deleting section (6), renumbering and amending section (7) and dividing part of section (10) into section (11).

*PURPOSE: The Missouri State Water Patrol is amending this rule to more clearly define responsibilities and procedures applicable to both the applicant and Missouri State Water Patrol. This amendment will more clearly define responsibilities and procedures regarding the buoy application process. Since this rule was first promulgated, it has become apparent that more detailed guidelines are necessary for clarification purposes as the guidelines pertain to both the applicant and the Missouri State Water Patrol.*

*PURPOSE: This rule regulates the placement of aids to navigation and regulatory markers on the [water areas] waterways of the state of Missouri to ensure that such aids and markers are uniform and promote the public safety and welfare.*

(1) All persons requesting permission to place or have placed an aid to navigation or regulatory marker as defined in section 306.124, RSMo on the [waters] waterways of the state of Missouri must [complete an] submit a completed application form supplied by the Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. All applications must be submitted to the Missouri State Water Patrol General Headquarters in Jefferson City at least thirty (30) days before the date permission is requested. The application will be reviewed by the Missouri State Water Patrol at a public hearing after notice of the hearing has been published in the county paper at least ten (10) days before the hearing. Hearings will be conducted only [between April 1 and the third Monday in September] once per month during the months of September, November, January, March and May. The commissioner of the Missouri State Water Patrol, or his/her designated representative, shall approve or disapprove all applications within a reasonable length of time after the conclusion of the hearing.

(2) Applications for buoys one hundred feet (100') from a dock—

(B) The application must include a diagram of the cove[,] indicating the distance between the most lakeward portion of the applicant's dock and the dock(s) or shoreline on the opposite side of the cove;

(D) Docks that are within [one] two hundred feet [(100')] (200') of the applicant's dock must be indicated on the [application; and] diagram;

(E) [Because of increased potential for boating accidents due to constricting of traffic lanes, "no] "No wake-idle speed" buoys will not be approved for docks that are less than three hundred feet (300') from a dock on the opposite side of the cove[.] due to constriction and increased potential for accidents;

(F) Generally, private docks will only be permitted for one "no wake-idle speed" buoy unless other circumstances exist; and

(G) Buoy placement will be centered one hundred feet (100') out from the most lakeward portion of the applicant's dock unless extenuating circumstances determined by the Missouri State Water Patrol dictate otherwise. Placement of buoy(s) must comply with the approved permit.

(3) Applications to buoy the full width of a cove—

(A) All applications, including appeals, to regulate boating traffic for the full width of any portion of a cove shall be heard at the Missouri State Water Patrol Headquarters in Jefferson City;

[(A)](B) If the width of the cove is such that the distance between docks on opposite sides of the cove is in excess of four hundred feet (400'), the cove shall not be buoyed unless in the opinion of officials of the Missouri State Water Patrol the volume of boating traffic is significantly disproportionate to similar coves on the same body of water, or traffic accident data support the need for ["idle speed-no wake" buoys;] "no wake—idle speed" buoys. If the distance between opposing docks is disputed, the applicant at his/her expense shall have an official survey conducted by a Missouri registered surveyor to determine the exact distance;

[(B)](C) Applications to buoy coves that have a distance of four hundred feet (400') or less between docks on opposite sides of the cove must include a plot map of the cove with all affected owners names on their plot [(306.903, RSMo)];

[(C)] The application must include a petition signed by a minimum of seventy-five percent (75%) of the property owners. The signature petition shall include each property owner's dock permit number[;]

(D) The applicant is responsible for submitting proof of property ownership and documentation that seventy-five percent (75%) or more of property owners in the affected area are in agreement by including with the application a petition signed by at least seventy-five percent (75%) of property owners and a photocopy of each property owner's dock permit or personal property tax receipt or real estate property tax receipt;

(E) There will be a one (1) property, one (1) vote rule applied, to be determined by property tax receipts or official dock permit. Individuals who own more than one (1) property in the affected area are only to be counted as one (1) vote regardless of the number of lots owned;

(F) Second tier homeowners [and condominium owners] may sign the petition if they own [or lease] a dock[. Second tier owners may prove ownership by personal property tax receipts] and must prove dock ownership by dock permit or personal property tax receipt. Condominium owners may sign the petition only if they own or lease a slip within the condominium dock. Condominium owners must prove voting rights by submitting a personal property tax receipt or leasing agreement for a dock slip;

(H) If there are permitted buoys within the area that is to be controlled [upon approval], the permit number of the existing buoys must be submitted with the application. If the new application is approved, all existing permits within the new controlled area will be cancelled and the previously permitted buoys removed unless the officials of the Missouri State Water Patrol determine that it is in the interest of public safety to retain some or all existing permitted buoys;

(J) Approved buoys for a "no wake—idle speed" cove shall be placed one hundred feet (100') below or prior to the first dock affected, unless it would extend the buoys into the main channel. Owners of docks at both ends of the proposed buoy line and within one hundred feet (100') outside of the proposed buoy line must agree in writing to the placement of the proposed buoys;

(K) If a cove is such that it has a bottleneck effect within the cove and then opens up in excess of four hundred feet (400') between docks on opposite sides, the property owners may petition for "no wake—idle speed" buoys to control speed within the bottleneck and one hundred feet (100') on each side. The [permittee] permit holder shall be required to place a four [feet] foot by six [feet] foot (4' × 6') sign conforming to prescribed markings on a dock or approved structure at each end of the zone [reading, "no wake-idle speed" and conforming to prescribed markings]. The sign must face boaters when entering the controlled zone from either side; [and]

(L) Applications for "no-anchor" designation on all or any portion of a cove may be approved if in the opinion of the officials of the Missouri State Water Patrol the anchoring of boats unnecessarily impedes the normal flow of traffic, interferes with

a dock owner's ability to navigate from or to his/her property or if electric cables, gas lines or similar utilities could be vulnerable to damage as a result of anchoring;

*[(L)](M)* Lighted signs and flashing lights on buoys will be discouraged unless *[one hundred percent (100%)]* **seventy-five percent (75%)** of the property owners in the affected cove agree to the application for lights. All property owners within two hundred feet (200') of *[the marked "no wake-idle speed" zone]* **proposed lighted signs on buoys** must agree to *[all proposed lighting schemes/ the placement of the lights]*. If lighted signs or buoys are approved, affected property owners may, by petition, request to have the lights removed. The Missouri State Water Patrol Buoy Committee may not consider removal of permitted lights unless the petition to remove the lights bears the validated signatures of twenty-six percent (26%) or more of the current property owners in the permitted area. Shoreline property owners within two hundred feet (200') of the permitted area may be included in the revocation petition. **Lighted signs and flashing lights may be required by the Missouri State Water Patrol in some instances if deemed necessary for safe navigation; and**

**(N) Approved or required lights on buoys shall be solar white flashing lights. Approved or required lights on signs shall be solar amber flashing lights.**

(4) Modification(s) to an existing buoy permit must be approved by the Missouri State Water Patrol. *[A request to relocate existing permitted buoys will require a new application and hearing.]* **A request to modify an existing permit may require a new application and hearing if the modification would have a significant effect on boating traffic in the immediate area as determined by the Missouri State Water Patrol. The Missouri State Water Patrol shall determine if a permit modification requires a public hearing. New applications must conform to the above rules. Modifications of an existing permit for name or ownership change only, does not require a new hearing. Permit holders are required to notify the Missouri State Water Patrol if they have a change of address or transfer of property ownership.**

(5) Buoy applications for the same general area will be considered not more than two (2) times *[in a calendar year]* **within any twelve (12) consecutive month period.**

*[(6) For all buoy application concerns, a personal watercraft is considered a boat for all legal purposes.]*

*[(7)](6)* All rejected buoy applications shall be granted one (1) appeal for the same location. Appeal hearings will normally be held at Missouri State Water Patrol General Headquarters in Jefferson City. Either the commissioner or the *[director of]* field services commander will *[hear/ serve on]* the appeal board.

**(7) A personal watercraft is by statutory definition a vessel, which requires their operation to be in compliance with all regulatory markers.**

(9) It will be the responsibility of the *[applicant]* **permit holder** to purchase, install and maintain all approved buoys and signs. *[The buoys must be installed within sixty (60) days of the approval date. The Missouri State Water Patrol will mark approved buoy(s) for identification purposes by affixing to each buoy a metal stick-on tag showing the buoy permit number.]* All approved buoys and signs must be installed and in place from May 1 through Labor Day each year. Permitted buoys and signs may remain installed or removed the remainder of the year. Buoys and signs approved for new applications during the May hearings must be installed within thirty (30) days of the approval date. The permit holder shall mark each permitted buoy and sign with the permit number assigned by the Missouri

State Water Patrol. The permit number must be placed on each buoy or sign by a method that is both durable and legible. Buoys and signs that cannot be identified by visible permit number are subject to removal. All buoys must *[have reflective tape]* be reflective and conform to the Uniform State Waterway Marking System as established by the United States Coast Guard. *[If the buoys are removed during the winter months they must be replaced prior to May 1 of each year.]* The commissioner of the Missouri State Water Patrol may revoke the permit of any *[applicant]* **permit holder** upon failure to abide by these rules, *[if the buoy installation and placement is not in good maintenance and repair, not at specified locations as indicated on approval sent to the applicant by the commissioner or for the well-being of the public health and welfare as determined necessary by the commissioner upon a fifteen (15)-day written notice to the applicant].* **Upon fourteen (14) days written notice, the commissioner of the Missouri State Water Patrol may revoke any permit if the permit holder fails to maintain buoys, signs, markers and/or lights in proper placement or in a well-maintained and legible condition.** Buoys that have shifted in position because of water level, boat waves or some force of nature and the buoy still performs the purpose set forth in the application shall remain a legal navigation marker unless determined otherwise by the commissioner.

(10) The Missouri State Water Patrol retains, pursuant to section 306.124, RSMo, sole discretion to provide for the uniform marking of the *[water areas in]* **waterways** of this state through the placement of aids to navigation and regulatory markers. **The Missouri State Water Patrol may approve or revoke regulatory markers and navigational aids on any area of the waterways of this state when, in the opinion of officials of the Missouri State Water Patrol, public safety will be enhanced by the regulation or deregulation of boating traffic. The Missouri State Water Patrol shall consider traffic density, traffic patterns, accident data and other pertinent criteria prior to approval of an application or revocation of a permit.**

(11) Nothing in this rule shall be construed to create in any other party any right or entitlement to the privilege of placing such aids or markers or any legal duty on behalf of the Missouri State Water Patrol to approve or disapprove any request to place such aids or markers.

*AUTHORITY: section 306.124, RSMo [1994] Supp. 2003. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed Aug. 25, 1977, effective Jan. 13, 1978. Amended: Filed Sept. 13, 1983, effective Jan. 13, 1984. Amended: Filed May 31, 1984, effective Sept. 14, 1984. Amended: Filed Oct. 29, 1999, effective April 30, 2000. Amended: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will cost private entities who apply for a buoy an average of three hundred twelve dollars and fifty cents (\$312.50) per buoy. We assume there will be an average of two hundred twenty-five (225) buoys permitted each year. The cost of compliance would be approximately seventy thousand three hundred twelve dollars and fifty cents (\$70,312.50) per year.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Colonel Jerry E. Adams, Commissioner, Missouri State Water Patrol, PO Box 1368, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

FISCAL NOTE  
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	11 CSR 80-5.010 Approval of Aids to Navigation and Regulatory Markers
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
225 Buoys permitted affecting approximately 200 persons annually	n/a	\$70,312.50 annually

III. WORKSHEET

Applicants request navigational aids and regulatory markers on a voluntary basis. Most applicants (private dock owners) are approved for one buoy. The total cost to the applicant is between \$250.00 and \$375.00 depending upon where the buoy is purchased. Marinas, condominium associations, and some other shoreline businesses with large or multiple docks may apply and be approved for multiple buoys. The applications are voluntary and cannot be predicted in advance.

IV. ASSUMPTIONS

This Rule will cost someone who applies for a buoy a minimum of \$250-\$375 per buoy. An individual may apply for more than one buoy at a time. It is not known how many buoys will be requested until an application is received, and not all requested buoys are approved by the Missouri State Water Patrol. In 2001 there were 288 buoys approved, in 2002 there were 204 buoys approved, and in 2003 there were 182 buoys approved for waterways of the state. Assuming this trend continues, we assume there will be an average of 225 buoys permitted each year. The average price per buoy would be \$312.50; therefore, we believe the cost of compliance would be approximately \$70,312.50 per year.



**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.055 Failure to File Tax Returns.** This rule set forth the circumstances under which an additional tax will be imposed against an individual, corporation or other taxpayer for failing to file income tax returns on time.

*PURPOSE:* This rule is being rescinded because the rule is superseded by other rules.

*AUTHORITY:* section 143.961, RSMo 1986. Regulation 1.741 was originally filed Dec. 22, 1975, effective Jan. 2, 1976. Amended: Filed Sept. 1, 1993, effective April 9, 1994. Rescinded: Filed Nov. 7, 2003.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.060 Failure to Pay Tax.** This rule clarified the circumstances under which an additional tax will be imposed for failing to pay tax on time.

*PURPOSE:* This rule is being rescinded because the rule is superseded by other rules.

*AUTHORITY:* section 143.961, RSMo 1986. Regulation 1.751 was first filed Dec. 22, 1975, effective Jan. 2, 1976. Amended: Filed Sept. 1, 1993, effective April 9, 1994. Rescinded: Filed Nov. 7, 2003.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RESCISSION**

**12 CSR 10-2.235 Government Pension Exemption.** This rule established the requirements and procedures for claiming the exemption provided in section 143.124, RSMo for government pensions.

*PURPOSE:* This rule is being rescinded because it is superseded by another rule.

*AUTHORITY:* section 143.961, RSMo 1994. Original rule filed Sept. 11, 1992, effective April 8, 1993. Rescinded: Filed Nov. 7, 2003.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 7—Special Motor Fuel Use Tax**

**PROPOSED RESCISSION**

**12 CSR 10-7.180 Retail Dealer Licensing/Reporting Requirements: Multiple Locations.** This rule clarified the licensing and reporting requirements for retail dealers of special fuel with one or multiple locations.

*PURPOSE:* This rule is being rescinded because retail dealers no longer need to be licensed and file reports.

*AUTHORITY:* section 142.621, RSMo 1986. Original rule filed Feb. 16, 1988, effective May 12, 1988. Rescinded: Filed Nov. 7, 2003.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 7—Special Motor Fuel Use Tax**

**PROPOSED RESCISSION**

**12 CSR 10-7.210 Waterway or Pipeline Terminal Operators.** This rule clarified the reporting requirements of special fuel terminal operators pursuant to section 142.573.6 and 142.573.7, RSMo.



*PURPOSE: This rule is being rescinded because due to law change sections 142.573.6 and 142.573.7 were repealed.*

*AUTHORITY: sections 142.621, RSMo 1986 and 142.573.6 and 142.573.7, RSMo Supp. 1989. Original rule filed March 22, 1989, effective Sept. 11, 1989. Rescinded: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 7—Special Motor Fuel Use Tax**

**PROPOSED RESCISSION**

**12 CSR 10-7.220 Special Fuel Inventory Subject to Tax.** This rule clarified the reporting and payment procedures for special fuel in inventory pursuant to section 142.372, RSMo.

*PURPOSE: This rule is being rescinded because due to law change, special fuel in inventory is not subject to reporting or payment of additional tax in case of a rate increase.*

*AUTHORITY: sections 142.372, RSMo Supp. 1989 and 142.621, RSMo 1986. Original rule filed March 22, 1989, effective Sept. 11, 1989. Rescinded: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 7—Special Motor Fuel Use Tax**

**PROPOSED RESCISSION**

**12 CSR 10-7.290 Special Fuel Reporting Option.** This rule outlined procedures which allowed special fuel distributors the option of reporting receipts of special fuel on the basis of net (temperature adjusted) or gross (measured) gallons, pursuant to section 144.403.2, RSMo.

*PURPOSE: This rule is being rescinded because this reporting option no longer exists.*

*AUTHORITY: section 142.621, RSMo 1986. Original rule filed Dec. 12, 1989, effective May 11, 1990. Rescinded: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 7—Special Motor Fuel Use Tax**

**PROPOSED RESCISSION**

**12 CSR 10-7.310 Release of Bonding Requirements.** This rule interpreted fuel tax statutes, sections 142.100 and 142.462, RSMo as they applied to the release of bonding requirements for Motor/Special Fuel Distributors, pursuant to House Bill 1280.

*PURPOSE: This rule is being rescinded because distributors are no longer released from bonding requirements.*

*AUTHORITY: sections 142.100, RSMo 1986 and 142.462, RSMo Supp. 1989. Emergency rule filed Sept. 14, 1990, effective Sept. 24, 1990, expired Jan. 21, 1991. Original rule filed Sept. 14, 1990, effective Feb. 14, 1991. Rescinded: Filed Nov. 7, 2003.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 7—Special Motor Fuel Use Tax**

**PROPOSED RESCISSION**

**12 CSR 10-7.330 Minimum/Maximum Bond Amounts.** This rule clarified the bonding requirements of motor fuel/special fuel distributors effective January 1, 1992.

*PURPOSE: This rule is being rescinded because the bonding requirements effective January 1, 1992 are no longer in effect.*

*AUTHORITY: sections 142.300 and 142.621, RSMo 1986. Original rule filed Jan. 31, 1992, effective June 25, 1992. Rescinded: Filed Nov. 7, 2003.*

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 23—Motor Vehicle**

**PROPOSED RULE**

**12 CSR 10-23.460 Issuance of Biennial Disabled Person Placard**

**PURPOSE:** This rule provides for issuing biennial disabled placards on a staggered basis to equalize the Department of Revenue's workload.

(1) Disabled person placards expire in September of the designated expiration year. The renewal period begins August 1 in the year of their expiration.

(A) New applicants for disabled person placard(s) processed on or before December 31, 2003, will be issued a one (1)-year placard expiring September 30, 2004, at a cost of two dollars (\$2).

(B) New applicants for disabled person placard(s) processed after December 31, 2003 and prior to August 1, 2004 will be issued a two (2)-year placard expiring September 30, 2005, at a cost of four dollars (\$4).

1. New applicants that mail their application to the Central Office and only include a two dollar (\$2) fee will be issued a one (1)-year placard.

(C) Renewal applicants for disabled person placard(s) processed on or before December 31, 2003, will receive a one (1)-year placard expiring September 30, 2004, at a cost of two dollars (\$2).

(D) Late renewal applicants for disabled person placard(s) processed after December 31, 2003, have the option of receiving a one (1)-year or two (2)-year placard at a cost of two dollars (\$2) or four dollars (\$4) respectively.

(E) Renewal applicants who renew during the renewal cycle beginning August 1, 2004, and whose last name begins with the letter "A" through "K" will be issued a one (1)-year placard expiring September 30, 2005, at a cost of two dollars (\$2). These applicants will be issued a two (2)-year placard at a cost of four dollars (\$4) in subsequent years.

(F) Renewal applicants who renew during the renewal cycle beginning August 1, 2004, and whose last name begins with the letter "L" through "Z" will be issued a two (2)-year placard expiring September 30, 2006, at a cost of four dollars (\$4).

1. Renewal applicants that mail their application to the Central Office and only include a two dollar (\$2) fee will be issued a one (1)-year placard in lieu of rejecting for the additional two dollar (\$2) fee.

**AUTHORITY:** sections 301.003, RSMo 2000 and 301.142, RSMo Supp. 2003. Original rule filed Nov. 13, 2003.

**PUBLIC COST:** This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—Division of Medical Services**  
**Chapter 3—Conditions of Provider Participation,**  
**Reimbursement and Procedure of General Applicability**

**PROPOSED AMENDMENT**

**13 CSR 70-3.120 Limitations on Payment of Out-of-State Nonemergency Medical Services.** The director is amending sections (3), (5) and (6).

**PURPOSE:** This proposed amendment clarifies the requirements of prior authorization of inpatient and outpatient hospital services for Missouri Medicaid recipients twenty-one (21) years of age and older to make them consistent with proposed rule 13 CSR 70-15.180.

(3) Out-of-state is defined as not within the physical boundaries of Missouri nor within the boundaries of any state which physically borders on the Missouri boundaries. Border-state providers of services (those providers located in Arkansas, Illinois, Iowa, Kansas, Kentucky, Nebraska, Oklahoma, Tennessee) will be considered as being on the same Medicaid participation basis as providers of services located within Missouri for purpose of administration of this rule, **except for inpatient and outpatient hospital providers. There are no exceptions to the prior authorization requirement for treatment of nonemergency conditions for Missouri Medicaid recipients age twenty-one (21) and over at out-of-state hospitals, including bordering states, except as provided in 13 CSR 70-15.180(1)(B).**

(5) The patient's attending physician is responsible for obtaining prior authorization of the services s/he believes to be medically necessary.

(B) All prior authorization requests must be submitted in accordance with policies and procedures established by the Division of Medical Services as stated in the respective *Medicaid Provider Manual*, which is incorporated by reference as a portion of this rule and available through the Department of Social Services, Division of Medical Services website at [www.dss.mo.gov/dms](http://www.dss.mo.gov/dms).

(6) The following are exempt from the requirement for prior authorization of nonemergency Medicaid-covered services for out-of-state providers:

(B) *[All b/Border state providers as defined in section (3) of this rule with the exception of inpatient and outpatient hospital providers.*

**AUTHORITY:** section[s 207.020 and] 208.201, RSMo [1994] 2000. This rule was previously filed as 13 CSR 40-81.190. Emergency rule filed Sept. 18, 1981, effective Sept. 28, 1981, expired Jan. 13, 1982. Original rule filed Sept. 18, 1981, effective Jan. 14, 1982. Amended: Filed Oct. 21, 1994, effective June 30, 1995. Amended: Filed Nov. 14, 2003.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. See fiscal note for 13 CSR 70-15.180 in this *Missouri Register*.

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received with thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comment must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—Division of Medical Services  
Chapter 15—Hospital Program**

**PROPOSED RULE**

**13 CSR 70-15.180 Hospital Services Provided Out-of-State**

*PURPOSE: This rule establishes the regulatory basis for when inpatient or outpatient hospital services are authorized to be provided out-of-state. This rule establishes the method of reimbursing out-of-state hospitals for inpatient or outpatient care provided to any recipients of Missouri Medicaid, whether they are under age twenty-one (21) or age twenty-one (21) and over.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) Recipients of the Missouri Medical Assistance (Medicaid) Fee-for-Service Program age twenty-one (21) and older are eligible for inpatient or outpatient care provided by an out-of-state hospital only if one (1) of the following occurs:

(A) Documentation is provided that while temporarily out of Missouri, the medical assistance (Medicaid) eligible recipient required inpatient hospital services for an emergency medical condition. For treatment of an emergency medical condition no prior authorization is needed. Documentation of the emergency must be submitted with the claim; or

(B) The hospital admission receives prior authorization from the Division of Medical Services or its authorized representative for the services or treatments or both when it is documented that:

1. The requested hospital services or treatments or both are medically necessary; and

2. The out-of-state hospital is the only facility equipped to provide the type of care that the Medicaid eligible individual requires.

(C) Out-of-state providers must be licensed and certified by their respective states to be considered eligible to provide services to Missouri recipients.

(2) There are no exceptions to the prior authorization requirement for treatment of nonemergency conditions at out-of-state hospitals, including border state hospitals, except as provided in subsection (1)(B) of this rule. A Medicaid recipient may only be approved for out-of-state services if a comparable service is not available in Missouri. If the Division of Medical Services or its authorized representative denies prior authorization for an inpatient or outpatient hospital service because that service is available in-state, a request

for reconsideration will be considered only if the hospital outside of Missouri has additional medical information that was not considered in the initial request. The additional medical documentation must address the issue of why this service for the Medicaid recipient must be provided at an out-of-state facility and cannot be provided in Missouri. All prior authorization requests must be submitted in accordance with the policies and procedures established by the Division of Medical Services and shall be included in the Medicaid Hospital Provider Manual which is incorporated by reference as a portion of this rule and available through the Department of Social Services, Division of Medical Services website at [www.dss.mo.gov/dms](http://www.dss.mo.gov/dms).

(3) Recipients twenty-one (21) years of age and older enrolled with a Missouri MC+ Managed Health Care Plan on the date(s) of service provided must contact the MC+ managed health care plan concerning the authorization of services unless there is an emergency.

(4) The requirement that nonemergency care may only be provided at an out-of-state hospital with prior authorization does not apply to children under twenty-one (21) years of age seeking inpatient or outpatient hospital care in bordering states.

(5) Covered inpatient hospital services include those items and services allowed by the Medicaid State Plan including medically necessary care in a semiprivate room. If prior authorized Missouri Medicaid may reimburse for a private room if it is certified medically necessary by a physician to avoid jeopardizing the health of the patient or to protect the health and safety of other patients. No payment will be made for any portion of the room charge when the recipient requests and is provided a private room when the private room is not medically necessary.

(6) Payment for authorized inpatient hospital services shall be made on a prospective per diem basis for services provided outside Missouri if the services are covered by the Missouri Medical Assistance (Medicaid) Program. To be reimbursed for furnishing services to Missouri Medicaid recipients, out-of-state providers must complete a Missouri Medical Assistance Program Provider Participation Application and have the application approved by the Missouri Department of Social Services, Division of Medical Services.

(7) Determination of Payment. The payment for inpatient hospital services provided by an out-of-state provider shall be the lowest of:

(A) At the out-of-state hospital's election, the prospective inpatient payment may be based on information from the hospital's Medicare base year cost report and all financial documentation required by Missouri regulations for hospitals operating in Missouri with inflationary increases as granted by the Missouri General Assembly or the out-of-state hospital may be exempt from the cost report filing requirements if the hospital accepts the projected statewide average per diem rate for Missouri hospitals as calculated by the Department of Social Services, Division of Medical Services for the state fiscal year in which the service was provided. The effective date for any increase above the statewide average per diem rate for Missouri hospitals shall be the first day of the month following the Division of Medical Services determination of per diem rate based on information from the hospital's Medicare base year cost report and all financial documentation required by Missouri regulation for hospitals operating in Missouri.

(B) The amount of total charges billed by the hospital. The provider's billed charges must be their usual and customary charges for services; or

(C) The Medicare deductible or coinsurance, if applicable, up to the amount allowed by the Missouri Medicaid program.



(8) Per Diem Reimbursement Rate Computation. The per diem reimbursement rate computation is the same as calculated for Missouri hospitals at 13 CSR 70-15.010(3).

(9) If a provider fails to submit all financial documentation required by Missouri regulations for hospitals operating in Missouri within thirty (30) days of making the election to receive payment based on information from cost reports, the payment shall be based on the projected statewide average per diem rate in Missouri as developed by the Department of Social Services, Division of Medical Services for the state fiscal year.

(10) Out-of-state hospitals shall present claims to Missouri Medicaid within three hundred sixty-five (365) days from the date of service. In no case shall Missouri be liable for payment of a claim received beyond one (1) year from the date services were rendered. Inpatient and outpatient hospital services must be submitted on the UB-92 claim form.

(11) Out-of-state hospitals are subject to the Department Concurrent Hospital Review process (utilization review) for all nonemergency services to Medicaid eligible recipients age twenty-one (21) and older.

(12) Nonemergency outpatient hospital services for individuals age twenty-one (21) and over shall only be reimbursed if they are prior authorized when it is documented that the out-of-state hospital is the only facility equipped to provide the type of care that the individual requires.

(13) The payment for authorized outpatient hospital services provided by an out-of-state hospital shall be the lowest of:

(A) At the out-of-state hospital's election, a prospective outpatient payment percentage calculated using the Medicaid over-all outpatient cost-to-charge ratio from the fourth, fifth, and sixth prior base year cost reports and all documentation required by Missouri regulation for hospitals operating in Missouri regressed to the current state fiscal year or the out-of-state hospital may be exempt from the cost report filing requirement if the hospital accepts the projected statewide average outpatient payment percentage as developed by the Department of Social Services, Division of Medical Services for the state fiscal year in which the service was provided. The effective date for any increase above the statewide average outpatient payment percentage shall be the first day of the month following the Division of Medical Services determination of the outpatient payment percentage based on information from the hospital's Medicare base year cost report and all financial documentation required by Missouri regulation for hospitals operating in Missouri; or

(B) The amount of total charges billed by the hospital.

(14) Outpatient Reimbursement Rate Computation. The outpatient reimbursement rate computation is the same as calculated for Missouri hospitals at 13 CSR 70-15.160.

(15) Disproportionate Share Providers. Out-of-state hospitals do not qualify for disproportionate share (DSH) payments unless they have a low income utilization rate exceeding twenty-five percent (25%) for Missouri residents and the out-of-state hospital can demonstrate that the provision of services to Missouri residents has not been considered in establishing their DSH status in any other state.

(16) All Medicaid services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made.

(17) Regardless of changes of ownership, management, control, operation, leasehold interests by whatever form for any hospital previously certified for participation in the Medicaid program, the

department will continue to make all the Title XIX payments directly to the entity with the hospital's current provider number and hold the entity with the current provider number responsible for all Medicaid liabilities.

(18) Participation in the Missouri Medicaid program shall be limited to hospitals who accept as payment in full for covered services rendered to Medicaid recipients the amount paid in accordance with Missouri statute and regulations.

(19) Definitions.

(A) The definitions from regulation 13 CSR 70-15.010 are incorporated as 13 CSR 70-15.180.

(B) Base year cost report—shall be either a 1995 Medicare cost report and Missouri's supplemental cost report schedules for those hospitals enrolled in the Missouri Medicaid Program as of the effective date of this regulation or the most recent submitted cost report to Medicare and Missouri's supplemental cost report schedules for those hospitals that elect to enroll in Missouri Medicaid after the effective date of this regulation.

(C) Emergency medical condition—a medical or mental health condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

1. Placing the physical or mental health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
2. Serious impairment to bodily functions;
3. Serious dysfunction of any bodily organ or part;
4. Serious harm to self or others due to an alcohol or drug abuse emergency;
5. Injury to self or bodily harm to others; or
6. With respect to a pregnant woman having contractions:

A. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

B. That transfer may pose a threat to the health or safety of the woman or the unborn.

(D) Medically necessary—hospital service that is consistent with the recipient's diagnosis or condition and that is in accordance with the criteria as specified by the department. Services will be provided in the most cost-effective and appropriate setting and shall not be provided for the convenience of the recipient or the service provider.

(E) Out-of-state—not within the physical boundaries of Missouri.

(F) Usual and customary charge—the amount which the individual provider charges the general public in the majority of cases for a specific procedure or service.

*AUTHORITY: section 208.201, RSMo 2000. Original rule filed Nov. 14, 2003.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$4,665,800 annually over the life of the rule.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comment must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*



**FISCAL NOTE**

**PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	13 CSR 70-15.180 Hospital Services Provided Out-of-State
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services, Division of Medical Services	\$4,665,800 annually over the life of the rule

**III. WORKSHEET**

Out-of-state covered days (age less than 21)	4,900		
Average in-state per-diem		\$852.73	\$4,178,377
Current payment		\$660.89	- 3,238,361
			<u>\$ 940,016</u>

Out-of-state covered days (age 21 and older)	40		
Average in-state per-diem		\$852.73	\$34,109.20
Current payment		\$345.13	- 13,805.20
			<u>\$20,304.00</u>

Days to be covered in Missouri	7,300		
Average in-state per-diem		\$852.73	\$6,224,929
Current payment		\$345.13	- 2,519,449
			<u>\$3,705,480</u>

**IV. ASSUMPTIONS**

13 CSR 70-3.120 requires prior authorization of nonemergency services except in bordering states. The "bordering state" exception to prior authorization does not apply to inpatient or outpatient services for Missouri Medicaid recipients age twenty-one (21) or older.

This rule increases the prospective inpatient per diem payment for Missouri Medicaid recipients under age twenty-one (21) treated in hospitals located out-of-state from

\$660.89 to at least the projected statewide average per-diem rate for Missouri hospitals (\$852.73 in SFY 2004) or the per-diem payment as calculated from the hospital's Medicare base year cost report and all financial documentation required by Missouri regulations for hospitals operating in Missouri.

13 CSR 70-15.180 requires prior authorization of nonemergency inpatient or outpatient services for Missouri Medicaid recipients age twenty-one (21) or older in hospitals located out-of-state.

This rule increases the prospective inpatient per-diem payment for Missouri Medicaid recipients age twenty-one (21) or older treated in hospitals located out-of-state from \$345.13 to at least the projected statewide average per-diem rate for Missouri hospitals (\$852.73 in SFY 2004) or the per diem payment as calculated from the hospital's Medicare base year cost report and all financial documentation required by Missouri regulations for hospitals operating in Missouri.

Estimated annual covered days out-of-state for ages less than 21	4,900
Estimated covered days out-of-state (age 21 and older)	40
Additional estimated covered days in Missouri hospital	7,300

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—Division of Medical Services**  
**Chapter 98—Psychiatric/Psychology/Counseling/Clinical**  
**Social Work Program**

**PROPOSED RULE**

**13 CSR 70-98.015 Psychiatric/Psychology/Counseling/Clinical Social Work Program Documentation**

*PURPOSE: This rule establishes the regulatory basis for the documentation requirements of services provided through the Medicaid psychiatric/psychology/counseling/clinical social work program. The Health Insurance Portability and Accountability Act (HIPAA) mandates that states allow providers to bill for services using the standard current procedural terminology (CPT) code sets, however, it does not require states to add coverage for services that it does not currently cover. The Division of Medical Services (DMS) has not added coverage of services previously not covered, however, it is redefining limitations based on standard code definitions, and clarification to Medicaid policy.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) Administration. The Missouri Medicaid psychiatric/psychology/counseling/clinical social work program shall be administered by the Department of Social Services, Division of Medical Services (DMS). The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by DMS and shall be included in the Medicaid *Psychology/Counseling Provider Manual* and Section 13.57 of the *Physician's Provider Manual*, which are incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at [www.dss.mo.gov/dms](http://www.dss.mo.gov/dms). Psychiatric/psychology/counseling/clinical social work services shall include only those which are clearly shown to be medically necessary. The division reserves the right to affect changes in services, limitations, and fees with notification to providers.

(2) Persons Eligible. The Missouri Medicaid Program pays for approved Medicaid services for psychiatric/psychology/counseling/clinical social work services when furnished within the provider's scope of practice. The recipient must be eligible on the date the service is furnished. Recipients may have specific limitations for psychiatric/psychology/counseling/clinical social work services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a recipient based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's Medicaid/MC+ and managed care or other lock-in status before any service is performed. The recipient's eligibility shall be verified in accordance with methodology outlined in the provider program manual.

(3) Provider Participation. To be eligible for participation in the Missouri Medicaid psychiatric/psychology/counseling/clinical social

work program, a provider must meet the licensing criteria specified for his or her profession and be an enrolled Medicaid provider.

(A) The enrolled Medicaid provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to recipients; and

2. On request furnish to the Medicaid agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Documentation Requirements for Psychiatric/Psychology/Counseling/Clinical Social Work Services. Documentation must be in narrative form, fully describing each session billed. A check-off list or pre-established form will not be accepted as sole documentation. Progress notes shall be written and maintained in the patient's medical record for each date of service for which a claim is filed. Progress notes for psychiatric/psychology/counseling/clinical social work services shall specify:

(A) First and last name of recipient:

1. When family therapy is furnished, each member of the family included in the session must be identified. Description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention;

2. When group therapy is furnished each service shall include the number of group members present, description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention and progress towards goals;

(B) The specific service rendered;

(C) Name of person who provided service;

(D) The date (month/date/year) and actual begin and end time (e.g., 4:00-4:30 p.m.) for face-to-face services;

(E) The setting in which the service was rendered;

(F) Patient's report of recent symptoms and behaviors related to their diagnosis and treatment plan goals;

(G) Therapist interventions for that visit and patient's response;

(H) The pertinence of the service to the treatment plan; and

(I) The patient's progress toward one (1) or more goals stated in the treatment plan.

(5) A plan of treatment is a required document in the overall record of the patient.

(A) A treatment plan must be developed by the provider based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for psychiatric/psychological/counseling/clinical social work services. If the service is for a child who is in the legal custody of the Children's Division (formerly known as Division of Family Services, Children's Services section), a copy of the treatment plan shall be provided to the Children's Division in order for the provider to retain reimbursement for the covered service(s);

(B) The treatment plan shall be individualized to reflect the patient's unique needs and goals.

(C) The plan shall include, but is not limited to, the following:

1. Measurable goals and outcomes;

2. Services, support, and actions to accomplish each goal/outcome. This includes services and supports and the staff member responsible, as well as action steps of the individual and other supports (family, social, peer, and other natural supports);

3. Involvement of family, when indicated;

4. Identification of other agencies working with the patient, plans for coordinating services with other agencies, or identification of medications, which have been prescribed, where applicable;

5. Services needed beyond the scope of the organization or program that are being addressed by referral or services at another community organization, where applicable;

6. Projected time frame for the completion of each goal/outcome; and

7. Estimated completion/discharge date for the level of care.

(D) The treatment plan shall be reviewed on a periodic basis to evaluate progress toward treatment goals and outcomes and to update the plan.

1. Each person shall directly participate in the review of his or her individualized treatment plan.

2. The frequency of treatment plan reviews shall be based on the individual's level of care or other applicable program rules. The occurrence of a crisis or significant clinical event may require a further review and modification of the treatment plan.

3. The individualized treatment plan shall be updated and changed as indicated.

4. Each treatment plan update shall include the therapist assessment of current symptoms and behaviors related to diagnosis, progress to treatment goals, justification of changed or new diagnosis, response to other concurrent treatments such as family or group therapy and medications.

5. The therapist's plan for continuing treatment and/or termination from therapy and aftercare shall be considerations expressed in each treatment plan update.

6. A diagnostic assessment from a Medicaid enrolled provider shall be documented in the patient's case record, which shall assist in ensuring an appropriate level of care, identifying necessary services, developing an individualized treatment plan, and documenting the following:

A. Statement of needs, goals, and treatment expectations from the individual requesting services. The family's perceptions are also obtained, when appropriate and available;

B. Presenting situations/problem and referral source;

C. History of previous psychiatric and/or substance abuse treatment including number and type of admissions;

D. Current medications and identifications of any medications allergies and adverse reactions;

E. Recent alcohol and drug use for at least the past thirty (30) days and, when indicated, a substance use history that includes duration, patterns, and consequences of use;

F. Current psychiatric symptoms;

G. Family, social, legal, and vocational/educational status and functioning. The collection and assessment of historical data is also required unless short-term crisis intervention or detoxification are the only services being provided;

H. Current use of resources and services from other community agencies;

I. Personal and social resources and strengths, including the availability and use of family, social, peer, and other natural supports; and

J. Multi-axis diagnosis or diagnostic impression in accordance with the current edition of the *Diagnostic and Statistical Manual of the American Psychiatric Association* or the *International Classification of Diseases*, Ninth Revision, Clinical Modification (ICD9-CM). The ICD9-CM is required for billing purposes.

7. When interactive therapy is billed, the provider must document the need for this service and the equipment, devices, or other mechanism of equipment used.

8. When care is completed, the aftercare plan shall include, but is not limited to, the following:

A. Dates began and ended;

B. Frequency and duration of visits;

C. Target symptoms/behaviors addressed;

D. Interventions;

E. Progress to goals achieved;

F. Final diagnosis; and

G. Final recommendations including further services and providers, if needed, and activities recommended to promote further recovery.

(6) For all medically necessary covered services, a writing of all stipulated documentation elements referenced in this rule are an essential and integral part of the service itself. No service has been performed if documentation requirements are not met.

(7) Documentation required by DMS does not replace or negate documentation/reports required by the Children's Division for individuals in their care or custody. Providers are expected to comply with policies and procedures established by the Children's Division (formerly known as Division of Family Services, Children's Services section) and DMS.

(8) Records Retention. Medicaid providers must retain for six (6) years from the date of service fiscal and medical records that coincide with and fully document services billed to the Medicaid Program, and must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, and retain adequate documentation for services billed to the Medicaid Program may result in recovery of the payments for those services not adequately documented and may result in sanctions to the provider's participation in the Medicaid Program. This policy continues to apply in the event of the provider's discontinuance as an actively participating Medicaid provider through change of ownership or any other circumstance.

(9) The requirement to document services and to release records to representatives of the Department of Social Services or the U.S. Department of Health and Human Services is also found in 13 CSR 70-3.020 and 13 CSR 70-3.030.

*AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo 2000. Original rule filed Nov. 14, 2003.*

*PUBLIC COST: This proposed rule is not expected to cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

## **Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

### **Division 30—Division of Health Standards and Licensure Chapter 82—General Licensure Requirements**

#### **PROPOSED RULE**

#### **19 CSR 30-82.090 Aging-in-Place Pilot Program**

*PURPOSE: This rule establishes standards for participating facilities in the Aging-in-Place Pilot Program designed to deliver a full range of physical and mental health services to residents in the least*



*restrictive environment of choice to reduce the necessity of relocating such residents to other locations as their health care needs change.*

**EDITOR'S NOTE:** All rules relating to long-term care facilities licensed by the Department of Health and Senior Services are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085, RSMo.

(1) Definitions. For the purposes of this rule, the following definitions shall apply:

(A) Activities of daily living (ADL) means those personal functional activities required by an individual for continued well-being including eating/nutrition, dressing and undressing, mobility, bathing, toileting, grooming, and transferring.

(B) Aging-in-place (AIP) means the process by which a person chooses to remain in the least restrictive environment of choice and to remain as independent as possible despite any physical or mental decline that may occur. For aging-in-place to occur, necessary services are made available as needed to compensate for the physical or mental changes of the individual. Aging-in-place programs facilitate the process of aging in place to the best of their ability in order to reduce the necessity of relocating as health care needs change.

(C) Ancillary services means those services other than room, board, nursing and personal care services such as physical, occupational, or speech therapy services, oxygen and pharmacy that are provided to residents in the course of care.

(D) Department means the Missouri Department of Health and Senior Services.

(E) Home health services means any of the following items and services licensed under Chapter 197, RSMo, and provided at the residence of the patient or resident on a part-time or intermittent basis: nursing, physical therapy, speech therapy, occupational therapy, home health aid, or medical social services.

(F) Individual service plan (ISP) means a written plan for services developed with the resident and, if applicable, family or legal representative, physician, if any, and case manager, that is based upon an assessment of the resident's needs and abilities and including, as appropriate, habilitative or rehabilitative goals and objectives, program goals and objectives, and the resources and methods necessary to implement the plan.

(G) Instrumental activities of daily living means those functional activities required by an individual for continued well-being including medication management, shopping, preparing meals, ability to use telephone, money management, housekeeping, mobility outside home, transportation, care of adaptive equipment, and care of support animal.

(H) Licensed health care professional means health care providers, including physicians, registered professional nurses, licensed practical nurses, physician assistants, advanced practice nurses, occupational therapists, speech pathologists, physical therapists, dietitians and social workers who have been authorized to practice a health care profession in accordance with Missouri law.

(I) Part-time or intermittent basis means the provision of home health services in an interrupted interval sequence on the average of not to exceed three (3) hours in any twenty-four (24)-hour period as defined in subsection 197.400(5), RSMo.

(J) Personal care means assistance with, provision of, cueing or supervision of activities of daily living and instrumental activities of daily living.

(K) Privacy means that the resident has control over his or her own space, which is shared only by choice, has control over time and how that time is spent, has a right to confidential medical records, and has services delivered in a way that ensures that resident civil rights are maintained.

(L) Protective oversight:

1. For those facilities licensed pursuant to Chapter 198, RSMo, protective oversight shall have the meaning set forth in section 198.006(14), RSMo and in 19 CSR 30-83.010(24);

2. For those facilities not required to be licensed pursuant to Chapter 198, RSMo, protective oversight means having continuous awareness of a resident's whereabouts, the ability to intervene if a crisis arises for the resident, supervision of nutrition or medication or actual provision of care and a twenty-four (24)-hour responsibility for the welfare of the resident.

(M) Residency agreement means a written agreement between the facility and the resident describing the rights and responsibilities of the resident and the facility, and outlines the terms of occupancy, fees and who is responsible for payment of fees, deposits, billing information, policies on pets, rates and rate changes, refunds, furnishings, and services provided by or arranged through the facility.

(N) Significant change means any major change in the resident's physical, emotional or psychosocial condition or behavior that would not normally resolve itself without intervention and requires revision, or modification of the resident's treatment or services.

(2) General Requirements.

(A) The AIP pilot program shall deliver a full range of physical and mental health services to residents in the least restrictive environment of choice to reduce the necessity of relocating such residents to other locations as their health care needs change. II/III

(B) The AIP pilot program shall provide service delivery that maximizes independence, choice and autonomy, and individuality in a homelike setting so that all individuals may live independently with respect for their privacy and dignity. II/III

(C) Each AIP pilot program shall provide a minimum array of case management services that must be tailored to each resident's specific needs and modified over time through the development of an ISP. II/III

(D) Each AIP pilot program shall demonstrate the ability to accommodate the increasing or changing needs of residents in a manner that facilitates the resident's independence, and provide access or coordinate access to ancillary services as necessary to support the resident's needs. II/III

(E) Each AIP pilot program facility licensed under Chapter 198, RSMo shall maintain substantial compliance with the provisions of Chapter 198, RSMo and all regulations under which the facility is licensed by the department. Compliance with the department's rules and requirements do not prohibit the use of alternative or innovative concepts, methods, procedures, techniques or equipment through requests for exceptions to the rules. II/III

(F) Any exception requested by an AIP pilot program to the long-term care regulations must be approved and issued by the department pursuant to the provisions of section (9) of this rule. II/III

(3) Licensing Requirements.

(A) Each AIP pilot program shall be registered by the department as an AIP pilot program participant operating under the provisions of section 198.531, RSMo.

(B) As applicable, each AIP pilot program shall be licensed based on the types of services that are provided to residents. Licensure requirements shall be as follows:

1. A license, pursuant to Chapter 198, RSMo, shall not be required for independent living services that provide personal care assistance, assistance with the administration of medications, or home health services to a patient or resident on a part-time or intermittent basis in accordance with a physician's written and signed plan of treatment, which may or may not require a home health license pursuant to sections 197.400 through 197.477, RSMo.

2. A license, pursuant to Chapter 197, RSMo, shall be required for home health services that provide two (2) or more home health services to a patient or resident on a part-time or intermittent basis in accordance with a physician's written and signed plan of treatment. Services provided by a licensed home health agency would

include: nursing, physical therapy, speech therapy, occupational therapy, home health aid, or medical social services;

3. A license shall be required for residential care services that provide twenty-four (24)-hour accommodation, board and care, protective oversight, storage and distribution or administration of medications, and personal care assistance. Such programs shall be licensed, at a minimum, as residential care facilities (RCFs) I;

4. A license shall be required for enhanced residential care services that provide twenty-four (24)-hour accommodation, board and care that includes personal care assistance, supervision of diets, storage and distribution or administration of medications, supervision of health care under the direction of a licensed physician, and protective oversight. Such programs shall be licensed, at a minimum, as RCFs II;

5. A license shall be required for intermediate care services that provide twenty-four (24)-hour accommodation, board, personal care, and basic health and nursing care services under the daily supervision of a licensed nurse and under the direction of a licensed physician. Such programs shall be licensed as intermediate care facilities; and

6. A license shall be required for skilled nursing services that provide twenty-four (24)-hour accommodation, board and skilled nursing care and treatment services performed by or under the supervision of a registered professional nurse (RN) for individuals requiring twenty-four (24) hours a day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill. Such programs shall be licensed as skilled nursing facilities.

#### (4) Staffing Requirements.

(A) The AIP pilot program shall maintain a sufficient number of staff with the required training and skills necessary to meet the resident's needs and requirements, as defined in each resident's residency agreement and ISP. I/II

(B) At least one (1) qualified, trained staff person shall be on-site and available twenty-four (24) hours per day for each licensed level of care to meet residents' scheduled and unscheduled needs. I/II

(C) Licensed health care professionals shall be on-site to the degree necessary to achieve the outcomes as specified in the resident's ISP and to provide appropriate staff training, oversight, and supervision. I/II

(D) Each AIP pilot program shall have an interdisciplinary team for oversight of the program that, at a minimum, includes:

1. A nursing home administrator licensed under the provisions of Chapter 344, RSMo;

2. An RN licensed under the provisions of Chapter 335, RSMo; and

3. A licensed health care professional appropriate for the levels of care and services provided by the AIP pilot program. I/II

(E) Each AIP pilot program shall employ or contract with:

1. An RN to oversee the implementation of residents' ISPs, to conduct the medical portion of functional assessments and overviews, provide health monitoring, intermittent and routine nursing care, and oversee health care services provided by staff;

2. Trained personal care assistants in sufficient numbers to provide quality care and services to residents; and

3. Non-personal care staff in sufficient numbers to provide quality services to residents. Such staff shall include, but not be limited to, housekeeping, dining and kitchen personnel, maintenance, and activity. I/II

(F) All staff providing personal care shall be eighteen (18) years of age or older. All other staff shall meet the minimum age requirements prescribed by federal or state law or applicable state regulations. II/III

(G) The AIP pilot program may cross-train staff to complete multiple tasks if the employee is appropriately qualified and licensed or

certified in the appropriate discipline, if applicable, for that particular job. II/III

(H) Each AIP pilot program shall ensure that the Employee Disqualification List and Criminal Background Check are completed in accordance with the provisions of sections 660.315 and 660.317, RSMo. II

#### (5) Shared Staffing.

(A) An AIP pilot program may share use of licensed and unlicensed personnel who are employed, directly or under contract, by the registered program in more than one (1) level of care, building or facility providing the AIP pilot program is a single registered entity in the AIP pilot program pursuant to section 198.531, RSMo. II/III

(B) Staff may be shared as long as there is a clear, documented audit trail and the staffing levels in all levels of care, buildings or facilities remain adequate to meet the needs of residents. II/III

#### (6) Residency Agreements.

(A) Prior to admission, the AIP pilot program shall:

1. Enter into a written residency agreement with each resident clearly describing the rights and responsibilities of the resident and the program;

2. Inform the resident of the services covered in the base rate;

3. Inform the resident of the cost of the services covered in the base rate;

4. Inform the resident of the cost of each service not included in the base rate;

5. Inform the resident that the monthly payment rate may increase if and when additional required services rise above the base rate; and

6. Inform the resident of his or her responsibility for payment when services are from an outside resource or not covered under the residency agreement. II/III

(B) The residency agreement shall include the terms of occupancy, fees and who is responsible for payment of fees, deposits, billing information, itemized charges for ancillary services, conditions under which the rates can be changed, the policy on refunds, furnishings, pets, and obligations and rights of the AIP pilot program and resident. II/III

(C) The residency agreement shall identify ancillary services available to the resident and specify which are the responsibility of the resident or the AIP pilot program. II/III

(D) The AIP pilot program shall inform residents in writing thirty (30) days prior to any increase, addition, or other modification in the residency agreement. II/III

(E) Any increase in the rates of services shall be based on the resident's needs as determined by the required functional assessment process. II/III

(F) If a significant change occurs in a resident's condition requiring an immediate increase, addition, or other modification in services, a change in the provision of services may be immediately initiated with the resident's written approval. I/II

(G) The residency agreement shall be signed by the AIP pilot program's authorized agent and by the resident or resident's legal representative. II/III

#### (7) Resident Assessments.

(A) The AIP pilot programs shall use selected common elements from the Minimum Data Set (MDS) quarterly assessment form (MDS 2.0). Each resident assessment shall be completed on a modified MDS quarterly assessment form, incorporated by reference in the text of this rule, to assess the needs of each resident. The functional assessment tool shall include, at a minimum, the following sections of the MDS quarterly assessment form:

1. Section G1.(A)—ADL Self-Performance;

2. Section G1.(B)—ADL Support Provided;

3. Section G3.—Test for Balance;

4. Section J2.—Pain Symptoms;
5. Section J4.—Accidents; and
6. Section K3.—Weight Change. II

(B) AIP pilot programs may choose to develop their own functional assessment instruments used in the program, which shall include, at a minimum, the data described in (7)(A)1.–6. All functional assessment instruments shall be reviewed and approved by the department prior to implementation. II/III

(C) The functional assessment shall accurately reflect the resident's status at the time of its completion. II/III

(D) Upon admission to an AIP pilot program facility, an appropriate licensed health care professional shall conduct a functional assessment on each resident. II/III

(E) The functional assessment shall be conducted on each resident:

1. Within ten (10) days of admission; and
2. At least every twelve (12) months thereafter; or
3. Whenever a significant change occurs in the resident's physical, mental or psychosocial functions that would require a change in the residency agreement or individual service plan. I/II

(8) Individual Service Plans (ISP).

(A) The AIP pilot program shall use a functional assessment as a basis for determining the services to be included in the resident's ISP. I/II

(B) In collaboration with the resident, an interdisciplinary team shall develop an ISP for the resident. II/III

(C) Whenever possible and appropriate, family members or other individuals, including the resident's physician, if any, instrumental in identifying the resident's needs, treatments or services shall be involved in the development or revision of the ISP. II/III

(D) Each person participating in its development shall sign the ISP. II/III

(E) An ISP shall be completed and implemented within eleven (11) days after the completion of a functional assessment of a resident. I/II

(F) An ISP shall include the following information:

1. Identification of the resident's capabilities, strengths, potential, and customary behaviors;
2. Identification of the resident's behavioral, medical and social needs;
3. A description of the services to be provided based on the resident's needs and preferences;
4. The expected outcomes of the services provided to meet the specified needs and preferences;
5. Identification of the staff or other persons responsible for providing the services to meet the needs of the resident; and
6. Identification of any service refused by the resident and the potential negative outcomes if such service is not provided. II/III

(G) Each resident's ISP shall be made available for use to all persons authorized to provide services to that resident. II/III

(H) When the resident's ISP includes the use of outside resources, the AIP pilot program shall:

1. Provide the resident with a list of service providers from which to choose to provide the needed service;
2. Assist the resident, when requested, in contacting outside resources for services; and
3. Monitor use of services provided by the outside resource and act as an advocate for the resident when services do not meet professional standards of practice. II

(9) Aging-In-Place Exceptions Process.

(A) The department may grant exceptions for specified periods of time to long-term care licensure rules imposed by the department upon satisfactory proof from the AIP pilot program that:

1. Granting the exception would not endanger the health, safety, or welfare of any resident;

2. Enforcing the provision of this rule would create an unreasonable hardship for the facility; and

3. Granting the exception would not cause the state of Missouri to fail to comply with any applicable requirements of the Medicare or Medicaid programs so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

(B) The owner or operator of the AIP pilot program facility shall make requests for exceptions in writing to the director of the department or the director's designee. These requests shall contain:

1. The rule number and section number and specific text of the rule for which an exception is being requested;
2. If applicable, specific reasons why compliance with the rule would impose an undue hardship on the operator, including an estimate of any additional cost that might be involved;
3. An explanation of any extenuating factors that may be relevant;
4. A complete description of the individual characteristics of the facility or residents, or of any other factors that would safeguard the health, safety and welfare of the residents if the exception were granted; and
5. A copy of the latest Statement of Deficiencies, if applicable, which indicates a violation of the rule being cited when the exception is being requested as a result of a deficiency issued during an inspection of the facility.

(C) If an AIP pilot program chooses to provide a higher level of care than for which it is licensed, the provider may request a resident-specific exception and indicate how it can appropriately meet the needs of the resident without jeopardizing other residents. The AIP pilot program shall meet the regulatory requirements of the higher level of care for the specific resident.

(D) The department shall only grant exceptions to licensure requirements set out in rules imposed by the department and cannot grant exceptions to requirements established by state statute or federal regulations. Operators wanting to obtain waivers of regulations under Title XVIII or Title XIX of the Social Security Act shall follow procedures established by the Centers for Medicare and Medicaid (CMS).

(E) The department shall not grant exceptions to home health licensure regulations covered under the provisions of 19 CSR 30-26.010.

(F) Upon a review of all the information submitted under subsection (9)(B), the department shall send the operator a written decision on each request for an exception, stating the reason(s) for acceptance or denial and, if granted, the length of time the exception is to be in effect and any additional factors upon which acceptance may be conditioned.

(10) Construction and Life Safety Standards.

(A) Each AIP pilot program licensed facility shall be designed, constructed, equipped and maintained to protect the health and safety of residents, staff, and the public and to provide residents with a comfortable, sanitary, fire-safe, secure and functional living environment. I/II

(B) Existing licensed facilities of an AIP pilot program whose plans were approved after April 8, 1972, and prior to January 1, 1999, shall comply with the applicable provisions of the 1985 *Life Safety Code* (National Fire Protection Association 101), except that no provision of the 1985 code will be enforced that is more restrictive than the code of original plan approval. II

(C) Existing licensed facilities of an AIP pilot program whose plans were approved on or after January 1, 1999, shall comply with the applicable provisions of the 1997 *Life Safety Code*. II

(D) Construction of new facilities of an AIP pilot program whose plans are approved on or after January 1, 2004, shall comply with the applicable provisions of the 2000 *Life Safety Code*. II

(E) Any expansion or renovation of an existing facility or the conversion of an existing facility not previously and continuously licensed as a long-term care facility under Chapter 198, RSMo, with



plans approved on or after January 1, 2004, shall comply with the applicable provisions of the 2000 *Life Safety Code*. II/III

(F) These minimum requirements are not intended in any way to restrict innovations and improvements in design, construction or operating techniques. Plans and specifications and operational procedures that contain deviations from the construction and life safety requirements may be approved if it is determined that the purposes of the minimum requirements have been fulfilled.

(G) The department may waive specific provisions of the construction and life safety requirements which, if rigidly applied, would result in unreasonable hardship upon the facility, providing that the waiver does not adversely affect the health or safety of residents or staff.

(H) Requests for variances from the construction and life safety requirements for long-term care facilities shall be submitted in writing to the department. Approvals for variances shall be issued in writing and both the requests and approvals shall become part of the permanent records in the department for the facility.

(I) In order for the department to consider any requests for variances, each AIP pilot program shall include information that addresses the following:

1. Strict compliance would impose a substantial hardship on the AIP pilot program or the resident;
2. The AIP pilot program would otherwise meet the goal of the statutory provision of the rule; and
3. A variance will not result in less protection of the health, safety and welfare of the resident.

(J) Those AIP pilot program facilities subject to the requirements of more than one (1) state or local regulatory agency are responsible for complying with the requirements of the other agencies involved.

(K) The department shall not grant a variance that violates local or state fire, health, or building requirements without approval of the agency responsible for the enforcement of that code.

(11) Transfer and Discharge Procedures. The AIP pilot program shall comply with the provisions of section 198.088, RSMo and 19 CSR 30-82.050 pertaining to transfer and discharge procedures, except for the purposes of this rule the following shall apply:

(A) No resident shall be transferred or discharged from the AIP pilot program unless:

1. The resident has breached the material conditions of the residency agreement despite documented evidence that the AIP pilot program made reasonable attempts to resolve any problem;
2. The license of the AIP pilot program has been revoked or not renewed or has been surrendered voluntarily;
3. The needs of the resident cannot be met by the AIP program with available support services and supplemental services cannot be arranged or paid for; or
4. The resident has failed to pay for board and services, after having been provided advanced written notice from the facility of payment due. II/III

(B) The only exceptions to the thirty (30)-day written notice requirement shall be in the case of an emergency transfer or discharge where:

1. The resident poses immediate actual harm or the serious threat of substantial harm to self or others; or
2. A court of competent jurisdiction has ordered the transfer or discharge; or
3. The resident's primary physician has ordered the transfer or discharge. II/III

(C) The transfer or discharge appeal notice must be addressed to the Administrative Hearings Officer, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570.

(D) Discharge proceedings in an AIP pilot program shall not supercede existing applicable landlord/tenant laws in accordance with the provisions of Chapter 441, RSMo. II/III

(12) AIP Pilot Program Monitoring and Evaluation.

(A) The department shall monitor the AIP pilot program on the success and effectiveness of the program, including quality of care, resident satisfaction and cost-effectiveness, including the cost equivalent of unpaid or volunteer labor.

(B) All AIP pilot programs shall design and implement a methodology for data collection and record keeping that will be maintained by the AIP pilot program and made available to the department for assessing outcome measures in each of the following areas:

1. Cost effectiveness;
2. Quality of care;
3. Resident satisfaction; and
4. Success in reducing the need to relocate residents as their health care needs change. II/III

*AUTHORITY:* section 660.050, RSMo Supp. 2003. Original rule filed Nov. 13, 2003.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will cost private entities an estimated \$4,580,000 during the first year of implementation and an estimated seventy-eight thousand seven hundred fifty dollars (\$78,750) annually thereafter for the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, Division of Senior Services and Regulation, David S. Durbin, Director, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.



**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 19 – Department of Health and Senior Services

Division: 30 – Division of Health Standards and Licensure

Chapter: 82 – General Licensure Requirements

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 30-82.090 Aging-in-Place Pilot Program

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
4	Long-Term Care Facilities	\$4,580,000 first year
		\$78,750 annually thereafter

**III. WORKSHEET**

Residency Agreement Costs - First Year Cost - \$1,250.00

Cost of developing a residency agreement is estimated at \$125 per facility –  
\$125 per facility x 4 facilities = \$500

Cost of completing a residency agreement for each resident of the aging-in-place pilot –  
\$5.00 per agreement x 150 residents in the pilot = \$750.00

Resident Assessment Costs - First Year Cost - \$22,500.00, Annually Thereafter Cost - \$22,500.00

Cost of conducting an assessment is estimated at \$100.00, the number of assessments to be completed each year of the pilot is estimated at 225 –  
\$100 per assessment x 225 assessments = \$22,500.00

Individual Service Plan (ISP) Costs - First Year Cost - \$56,250.00, Annually Thereafter Cost - \$56,250.00

Cost of developing an ISP for a resident is estimated at \$250.00, the number of ISPs to be developed each year of the pilot is estimated at 225 –  
\$250 per ISP x 225 ISPs = \$56,250.00

Construction Costs for a New Aging in Place Facility - First Year Cost - \$4,500,000

Construction costs are estimated at \$150 per square foot. Current long-term care facilities are approximately 30,000 square feet. Only one facility is planned for construction –  
\$150 per sq. ft. x 30,000 sq. ft. = \$4,500,000

#### IV. ASSUMPTIONS

##### Residency Agreement Costs

The \$125 cost of developing a residency agreement is a one-time cost to the facilities and assumes minimal facility personnel time and minimal time of the facility's legal counsel will be needed to modify the facility's existing resident agreement document so that it can be used for the pilot project.

The cost of completing a residency agreement is estimated at \$5.00, which includes printing and time to get signatures. The 150 residents is based on the number of beds at the four pilot facilities that are not currently licensed as SNFs or ICFs that would be available for the pilot project. A residency agreement will be signed one time when the resident enters the program. All of this cost is assumed to occur during the first year of the pilot project.

##### Resident Assessment Costs

The estimated \$100 cost of conducting a resident assessment includes facility personnel time spent in assessing the resident's condition and completing appropriate documentation. An annual resident assessment will be done for each of the estimated 150 residents in the pilot project. It will sometimes be necessary to do re-assessments of residents due to changes in their condition, etc., thus the inclusion of an additional 75 assessments each year.

##### Individual Service Plan (ISP) Costs

The estimated \$250 cost of developing an ISP includes facility personnel time spent in developing and documenting each resident's service plan based on their resident assessment. An annual ISP will be done for each of the estimated 150 residents in the pilot project. It will sometimes be necessary to do a new ISP for a resident due to changes in their condition, etc., thus the inclusion of an additional 75 ISPs each year.

##### Construction Costs for a New Aging in Place Facility

Three of the four facilities in the pilot project will use space in their existing facility and no construction will be required. Current construction costs for a facility vary from \$80 to \$225 per square foot. \$150 was used in calculations as an average cost. One new facility will be constructed by the Sinclair School of Nursing. All of the construction costs for this new facility are assumed to occur in the first year.